



Regulatory Panel

Date: Wednesday, 23 November 2022

Time: 16:00

Venue: Flensburg Room

Present: Councillor Ruth Alcroft, Councillor Mrs Marilyn Bowman, Councillor Ms Jo Ellis-Williams, Councillor Keith Meller, Councillor Mrs Linda Mitchell, Councillor Peter Sunter, Councillor Dr Les Tickner, Councillor Miss Jeanette Whalen
Councillor John Mallinson (for Councillor David Morton), Councillor Trevor Allison (for Councillor Tim Pickstone)

Officers: Senior Lawyer
Licensing Manager
Licensing Officer (x2)

RP.61/22 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor Pickstone, Councillor Nedved and Councillor Morton.

RP.62/22 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

RP.63/22 PUBLIC AND PRESS

It was agreed that the items of business in Part A be dealt with in public and the item of business in Part B be dealt with then the public and press were excluded.

RP.64/22 MINUTES OF PREVIOUS MEETINGS

RESOLVED - That Council, at its meeting on 8 November 2022, received and adopted the minutes of the meetings held on 14 September and 19 October 2022. The Chair signed the minutes.

RP.65/22 APPLICATION FOR A NEW PRIVATE HIRE VEHICLE LICENCE

The Licensing Officer submitted an application for Private Hire Vehicle Licences for two Mercedes vehicles. (GD.64/22)

Ms Waggot, representing the applicant, was in attendance.

The Senior Lawyer outlined the procedure the Panel would follow. Ms Waggot confirmed that she had received, read and understood the Licensing Officer's report. The Senior Lawyer advised Ms Waggot that she had the right to be represented but she indicated that they would not be so represented.

The Licensing Officer reported that Mr Lyttle (the Applicant) had submitted two applications to licence an eight seater V Class Mercedes and a five seater S Class

Mercedes as Private Hire vehicles. All relevant documentation had been submitted, however, there were queries regarding the insurance which would be followed up should the Panel grant the licences. The vehicles had factory fitted rear tinted windows which were considerably darker than the Council's Policy allowed.

The Licensing Officer explained that window tints were measured by the percentage of how much light can pass through the windows. This was called Visible Light Transmission or VLT. The lower the percentage VLT, darker the tint. The S Class had a tint reading of 0.2% on the rear passenger windows and the V Class a reading of 10%. The front windscreen and driver and adjacent passenger windows were clear.

The Council's Policy of a requirement of 70% VLT had been explained to the Applicant, however, he wished to proceed with the applications and requested that the Regulatory Panel consider licensing the vehicles outside the Council's Policy. The Applicant had submitted a letter in support of his application, included as Appendix 2. The website for the Applicant's business detailed the business offer including prom transfers, golfing trips, business trips and airport transfers. Wedding services were also offered but this did not require a Private Hire Vehicle Licence.

The Licensing Officer drew the Panel's attention to section 3 of the report which detailed the requirements of the Council's Hackney Carriage and Private Hire Licensing Policy 2022-2027 with regard to tinted windows.

The Licensing Officer responded to questions from the Panel and clarified the following:

- a number of Licensing Authorities had a similar Policy to the City Council, the figures were based on advice from Police and Fire and Rescue;
- there were no vehicles in the Council's taxi fleet that had windows with a tint of less than 70%, any vehicles that did not meet the Policy on application had been changed at the request of the Council;
- the Policy would be revisited in the future as a number of Skoda vehicles were produced with a 65% tint, only 5% under the Policy;
- the Police and Fire and Rescue advised that, for safety reasons, the tint on a vehicle window should allow for the occupants to be seen outside of the vehicle;
- the window tint was considered safe for private vehicles from the manufacturer but not for taxis;
- the vehicles in the application did not have a participation between the driver and the passengers;
- the Private Hire Licence would allow for the cars to be used for any pre booked private hire trip, the same as other Private Hire vehicles.

Ms Waggot addressed the Panel on behalf of the Applicant. She explained that she was a local business owner and she had been with Mr Lyttle for three years. He had run his business in Belfast for fifteen years and had brought his business to Cumbria to be with her. It had been difficult for them to obtain the necessary licences to run the business from Carlisle. Mr Lyttle moved high end clients across the country not just the County and he encouraged tourism to the area. He had not been able to attend the meeting as he was in the USA promoting golf tourism in the area.

With the agreement of the Chair, Ms Waggot circulated two reference letters from clients which confirmed their requirement of privacy when using the vehicles and an additional letter from Mr Lyttle.

The meeting adjourned at 16:20 to read the documents and reconvened at 16:23.

Ms Waggot explained that the letters covered the reasons for the application and stated that she found the Policy frustrating as vehicles with the same tint as theirs were being used all over the country. She reiterated that the vehicles would not be used on taxi ranks and could only be pre booked, the client usually had an itinerary which was also provided in advance. She stressed that Mr Lyttle wanted to work in the County.

Ms Waggot responded to questions from the Panel and clarified the following:

- the tint in the current Policy was not sufficient enough for the privacy of the clients;
- the vehicles would be available for prom hire when children would be transported;
- the business had held a Private Hire licence in Belfast;
- other drivers had suggested that Mr Lyttle applied for a licence in Manchester but he wanted the licence to be in Cumbria;
- Mr Lyttle had never had any incidents with passengers.

The Licensing Officer drew Members' attention to the legislation which they must take account of and set out the options for the Panel.

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

RESOLVED - The Panel had carefully considered and read the evidence in report GD.67/22 including the letter submitted in advance from Mr Lyttle and the references submitted at the meeting and listened carefully to the responses and heard from the Council's Licensing Officer and Ms Waggot.

The applications were made to licence an 8 seater V Class Mercedes and a 5 seater V Class Mercedes both which had factory fitted rear tinted windows with visual light transmission readings of 0.2% and 10%. Carlisle City Council's Hackney Carriage and Private Hire Licensing Policy 2022-2027 stated that there should be a visual light transmission reading of 70% or more. The reason for the Policy was to enable consistency in decision making, to improve the standards of the fleet in Carlisle and the safety of passengers and drivers.

The Council was only prepared to deviate from the Policy where there were exceptional circumstance which would justify it doing so.

The Panel had decided to grant the Private Hire Vehicle Licences due to the nature of the business which was not a standard Private Hire business.

RP.66/22 PRIVATE HIRE DRIVER – DRIVING UNLICENSED VEHICLE

The Licensing Manager submitted a report regarding a private Hire Driver who had used an unlicensed vehicle for a pre-booked journey to fulfil Coast to Coast Operators contract with Cumbria County Council's School Transport (GD.66/22).

Ms Wildey, the Private Hire Driver was in attendance.

The Senior Lawyer outlined the procedure the Panel would follow. Ms Wildey confirmed that she had received, read and understood the Licensing Manager's report. The Senior Lawyer advised Ms Wildey that she had a right to be represented but she indicated that she would not be so represented.

The Licensing Manager reported that Ms Wildey had held a Private Hire Driver Licence since February 2022; a Private Hire Vehicle Licence since May 2022 and a Private Hire Operator Licence since March 2022. Ms Wildey had no penalty points under the Hackney Carriage and Private Hire Licensing Policy on her record, however the conduct of Ms Wildey detailed in the report fell under several misconducts and amounted to 37 points.

The Licensing Manager reported that on 19 October 2022 Cumbria County Council School Transport Service informed the Licensing Authority that Ms Wildey had used an unlicensed vehicle to undertake a School Contract from Longtown to a primary school approximately 13 miles away on 11, 12 and 13 October 2022. It was alleged that the vehicle with the registration NA08 MVW had been used to take one child to school from their home in Longtown on the dates stated. The journey was operated by the Private Hire Operator Coast to Coast. The Licensing Authority were informed that the Operator had confirmed that the journey had been undertaken in an unlicensed vehicle and that the contract between the Local Authority and the Operator for that route had been immediately terminated.

Ms Wildey was interviewed by the Licensing Manager on 26 October 2022 where she admitted that the vehicle NA08 MVW had been used by her on the journeys from Longtown to the school and a return on 11 and 12 October and to the school on the morning of 13 October 2022. Ms Wildey stated that as her licensed vehicle had been suspended following its periodical test on 7 October 2022 she had approached the mother of the child and explained the situation and stated that the mother agreed that Ms Wildey could take the child to school in another vehicle "as a family friend" and not as a licensed driver. Ms Wildey stated that it had not been her intention to request payment for the journey from her operator who she would invoice at the end of each month.

Ms Wildey stated that the child's mother took the child to and from school on 10 October and collected her from school on 13 October. Ms Wildey did not inform her Operator of the circumstances or inform him that she was driving an alternative vehicle and would not be claiming for payment. Ms Wildey stated that the vehicle belonged to her son who was the Great-Nephew of Philip Taylor, who currently held the Operator Licence for Coast to Coast. The vehicle was 14 years old and according to online Gov.uk MOT records had 138,809 miles recorded on its odometer at its most recent MOT test in September 2022.

At its meeting on 14 September 2022 the Regulatory Panel resolved to revoke Coast to Coast's Operator Licence. Mr Taylor subsequently lodged an appeal with North Cumbria Magistrates Court and was able to continue to operate until his appeal was exhausted. (Reports GD 47/22 & GD 53/22). Mr Taylor had withdrawn the appeal and the licence had been revoked.

Mr Taylor was interviewed on 28 October 2022 and provided a copy of the Operator records for Coast to Coast for October 2022. The records stated that on the dates concerned, Ms Wildey had undertaken the journeys in the licensed vehicle CK66 CTF and the journey had a Passenger Assistant (DS). Mr Taylor stated that he was now aware that his record did not reflect accurately the journeys on 10 – 13 October 2022 and confirmed that the contract had been terminated by Cumbria County Council.

The Licensing Manager reported that Ms Wildey also held a Private Hire Vehicle

Licence, part of the conditions of the licence was for the vehicle to be test on a four monthly basis by the Council's mechanics. The vehicle had been tested on 7 October 2022, the vehicle failed due to dangerous defects, the licence plate was removed and the vehicle licence suspended until the vehicle was presented back to the mechanic with the defects rectified. Section 2.11 of the report listed the defects. In addition a body work letter had also been issued and the interior condition was not clean and free from tears and damage. Ms Wildey presented the vehicle back to the mechanic on 17 October 2022 and passed following the rectification of the defeats. Only one advisory had been addressed at that point.

The Licensing Manager explained that the Hackney Carriage and Private Hire Licensing Policy stated that the compliance test should not be regarded as a substitute for a regular preventative maintenance. Vehicle proprietors were expected to keep their vehicles in a clean, safe and proper manner always.

Ms Wildey also held a Private Hire Operator Licence. During the interview with the Licencing Officers on 26 October 2022 Ms Wildey was asked about the bookings she had operated under the licence as Officers required records. Ms Wildey stated that she had not accepted bookings as an Operator between the date of the licence and 23 October 2022, therefore no records were kept. She stated that the only work she had undertaken as a licensed driver was the school contract.

During Mr Taylor's interview he stated that he believed that Ms Wildey had undertaken airport runs under her Operator licence. At its test in May the mileage of Ms Wildey's vehicle was recorded at 80,345 and on 2 October 2022 it was 94,425, a total of 14,080 miles between the dates. Calculations regarding the distance of the school runs would give an estimated total of 1,620 miles, leaving 12,460 miles unaccounted for.

The Licensing Manager acknowledged that a Private Hire Vehicle could be used for personal use, however, over 12,000 miles was excessive for just over four months use given that the national average mileage in 2019 (pre pandemic levels) was 7,090. Ms Wildey's company, Emma's taxis, was advertised via Yell and facebook (Emma's Private Taxi Hire) and a comment on the page suggested that Ms Wildey had taken a booking.

The Licensing Manager reminded the Panel of the requirements for a Private Hire Operator to keep a record of every journey they operated. Failure to keep records was an offence under the Local Government (MP) Act 1976 and a breach of Licence Conditions.

In response to a question the Licencing Manager confirmed that the vehicle was now in an acceptable condition and had passed the required tests.

Ms Wildey addressed the Panel. She stated that the facebook comment had been her cousin who she had taken, along with her aunt, to Glasgow for no fee. She explained that she had four children which she regularly transported as far as Gretna for football and to and from work. She used the vehicle as her personal vehicle and she did drive friends, family and neighbours for no charge. Referring to the use of an unlicensed vehicle she explained that the child was a family friend, whilst her vehicle was out of action the mother asked if Ms Wildey could take the child to school and Ms Wildey had not realised this was not allowed. She had not charged for the trips; she had undertaken them as a friend. Ms Wildey explained that the child had difficulty getting into unknown vehicles and did not deal well with disruptions to her

schedule.

Ms Wildey responded to questions and clarified the following:

- she had fulfilled five trips in her private vehicle;
- she had undertaken the trips as a friend and not taken any payment;
- she had not known that she should have contacted Cumbria County Council to let them know she could not full fill the contract;
- she had not began taking bookings yet, she was waiting for an operation, once that had happened she had everything ready to begin;
- she became a driver at the request of the child's mother, she had been a carer and the mother asked her to become a driver to support her child;
- her ex-husband was related to Mr Taylor, Coast to Coast, she no longer had any contact with him and only contacted Mr Taylor with invoices;
- her school run was Monday - Friday but she only covered Tuesday, Wednesday and Thursday morning when her vehicle was out of action as the child's mother had an accident and was not able to drive herself;
- her school run was escorted, the transport assistant was also a friend and accompanied the journeys in question and she knew the journeys had been a favour to the mother;
- the child would not get in an unknown vehicle;
- despite being a family friend she had to spend additional time with the child prior to becoming her driver;
- she had not informed Coast to Coast that her vehicle was off the road.

With the agreement of the Chair Ms Wildey submitted a letter of support from the child's mother. The Chair read the letter to the Panel.

The Licensing Manager clarified the following:

- applicants for driver licences had to pass an enhanced DBS check, medical, disability awareness test, local knowledge test, wheelchair test and meet the conditions of the licence;
- a driver working for an Operator had a contract with the Operator;
- it was the driver's responsibility to understand the conditions of their licence;
- the appeal against the Panel's decision with regard to Coast to Coast's licence had been withdrawn, they no longer had an Operator licence and no longer had school contracts;
- Ms Wildey could drive under a different Operator or under her own Operator licence.

The Licensing Manager drew Members' attention to the legislation which they must take account of and set out the options for the Panel.

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

RESOLVED -

The Regulatory panel had carefully considered and read evidence in report GD.66/22 and heard from the Council's Licensing Manager and Ms Wildey.

PRIVATE HIRE DRIVER LICENCE

The Panel noted that Ms Wildey had held a Private Hire Driver Licence since March 2022 and had no Penalty Points under the Hackney Carriage and Private Hire Licensing Policy on her record.

The Panel must be satisfied that Ms Wildey was a fit and proper person to hold a Private Hire Driver's Licence.

The Panel decided to revoke the Private Hire Driver Licence (PD012).

The reasons were:

1. The Panel did not consider Ms Wildey to be a fit and proper person to hold a driver's licence;
2. Ms Wildey made several journeys in an unlicensed vehicle without informing the Operator or Cumbria County Council;
3. The Panel did not feel that Ms Wildey understood the serious implications of her actions or the requirements and conditions of her licence.

PRIVATE HIRE VEHICLE LICENCE

Ms Wildey had been brought before the Panel due to a number of defects and advisory faults that had been found on her Private Hire Vehicle by the City Council mechanic. The vehicle failed its inspection both for mechanical safety and cleanliness. The City Council Policy requires vehicle proprietors to keep their vehicles in a clean, safe and proper manner at all times.

The Panel decided to revoke the Private Hire Vehicle Licence.

The reason was that the Council's Licensing Policy stated that the compliance test was not a substitute for regular preventative maintenance, Ms Wildey had not kept her vehicle in a clean, safe and roadworthy condition.

PRIVATE HIRE OPERATOR LICENCE

Ms Wildey had been brought before the Panel regarding her failure to keep adequate records.

The Panel decided to revoke the Private Hire Operator Licence.

The reasons were:

1. The Panel did not think that Ms Wildey was a fit and proper person to hold the Operator's Licence;
2. Ms Wildey failed to keep adequate records which was an offence under the Local Government (Miscellaneous Provisions) Act 1976 and a breach of the Private Hire Operator Licence conditions.

Ms Wildey would receive written confirmation of the Panel's decision along with her rights of appeal.

Ms Wildey was also informed that she could reapply for her licences at any time.

RP.67/22 PRIVATE HIRE DRIVER – MOTORING CONVICTIONS

The Licensing Officer submitted a report regarding a Licensed Private Hire Driver who had motoring convictions (GD.68/22).

Mr James, the Private Hire Driver, was in attendance.

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

The Licensing Officer reported that Mr James has held a Private Hire Driver Licence since December 2020. The original application had been heard by the Regulatory Panel as he had a conviction for Health and Safety Offences. At that time he also had three points on his DVLA Driver Licence for a speeding conviction in 2018.

The Licensing Officer explained that during a routine driving licence check using First Advantage three endorsements for speeding had been identified which had not been declared to the Licensing Authority within the specified seven days as required by the conditions attached to the Private Hire Driver Licence.

The endorsements were set out in section 2.2 of the report. Mr James had been interviewed by the Licensing Manager and Licensing Officer where Mr James admitted that he had failed to notify the Licensing Authority. He stated that he had failed to read the 'small print' of the terms and conditions. Mr James had said he had told his operator that he had received the points on his licence for at least two of the endorsements and she had advised him to inform the Licensing Authority, he had admitted that he had not done this.

During the interview Mr James was asked to expand on the circumstances of the speeding endorsements, and he said he had only gone over the speed limit slightly and could not recollect the third endorsement for exceeding goods vehicle speed limit. He said he would contact the DVLA and obtain more information and email it through to the Licensing Office. Mr James stated he had no passengers in the vehicle at the time of the two offences on the motorway as he had dropped his passengers off.

Mr James had provided further details of endorsements:

- 31 October 2021
Speed 73mph in a 50mph zone (M6 Northbound)
- 7 February 2022
Speed 69mph in a 60mph zone (M1 Northbound)
- 16 April 2022
Speed 68mph in a 50mph zone (A69 Westbound)

The Licensing Officers had been concerned about Mr James' conduct during the interview, he had stated that he thought it was 'ridiculous' that he had to come to the Civic Centre and at the termination of the interview he opened the door in an aggressive manner causing the door to slam against the wall.

Mr. James was advised by the Licensing Manager of the Penalty Points Scheme and that the endorsement on his licence would incur 6 penalty points for 'Failure to notify the Council in writing, of any motoring or criminal convictions within 21 days or convictions or cautions during period of current licence'. He would also incur 4 penalty points for each speeding endorsement. This would be 18 in total.

The Licensing Officer outlined the authority's enforcement arrangements under the Council's Hackney Carriage and Private Hire Licensing Policy.

Mr James addressed the Panel. He explained that he worked primarily on school and airport runs for a Private Hire company. He explained that he had been returning from Manchester Airport when the first endorsement happened. It was 2.30am and work was being undertaken on the central reservation, he had not observed the change in the speed limit for the two lanes. With regard to the second endorsement he explained that he had taken a colleague to Sheffield to purchase a van, on his return he entered a smart motorway. He was driving under the 70mph speed limit but had not seen that the limit on the smart motorway had changed. The third endorsement happened on his way back from Newcastle he was driving an eight seat mini bus, he had not realised that this vehicle was classed as a goods vehicle, he had been driving at 69 in a 60 zone but in goods vehicle this should have been a limit of 50mph.

Mr James apologised for his conduct in the interview, stating he had been disappointed in himself. He relied on the income and he apologised to the Licensing Officer and Licensing Manager,

Mr James responded to questions and clarified the following:

- he had nine points on his driving licence;
- he had not been offered a speed awareness course.

In response to the Licensing Manager, Mr James stated that he had not declared the endorsements to the Licensing Authority as he had not 'read the small print' of his licence. His Operator had told him to inform licensing but he had forgotten. The speeding offences were all out of the area and were not school runs. He wanted to prove he was fit to be a driver and felt he had been unfortunate on some occasions.

The Licensing Officer drew Members' attention to the legislation which they must take account of and set out the options for the Panel.

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

RESOLVED - The Panel had carefully considered and read the evidence in report GD.68/22 and listened carefully to the Licensing Officer and Mr James.

The Panel noted that Mr James had held a Private Hire Driver's Licence since December 2020.

Mr James had been brought before the Panel because the Licensing Authority had received information that Mr James had received three speeding convictions and failed to declare them in accordance with the conditions of the Private Hire Licence.

The Panel must be satisfied that Mr James was a fit and proper persons to hold a Private Hire Driver Licence.

The Panel decided to suspend Mr James' Private Hire Driver Licence for a period of three months during this time he must sit and pass the DSA taxi test including the speed awareness test.

The reasons were:

1. The Panel had to be satisfied that Mr James was a fit and proper person to hold a Private Hire Driver Licence;
2. The Panel were concerned that Mr James received three speeding convictions in a short space of time without becoming more aware of his speed following the first and then second conviction;
3. Mr James failed to report the convictions in accordance with the conditions of his Private Hire Driver Licence.

Mr James would receive written confirmation of the Panel's decision along with his rights of appeal.

The Chair commented that the Panel had taken the matter very seriously, Mr James had 18 Penalty Points on his licence for a two year period. Any additional points would result in an immediate referral back to the Panel.

RP.68/22 STANDING ORDERS

During consideration of the above item it was

RESOLVED - That Council Procedural Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the 3 hour time limit.

The Meeting ended at: 19:20