

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
TOWN POLICE CLAUSES ACT 1847**

**REVIEW OF A HACKNEY CARRIAGE/PRIVATE HIRE
VEHICLE DRIVERS LICENCE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform the Sub-Committee of a review of a Hackney Carriage/Private Hire Vehicle Drivers Licence.
- 1.2 To request that the Sub-Committee determines the appropriate action to be taken in relation to the Hackney Carriage/Private Hire Vehicle Drivers licence in regard to Muhammad Shah Ali.

2. BACKGROUND INFORMATION

- 2.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council may suspend, revoke or refuse to renew a licence on the grounds that since the grant of the licence the person has:
 - (a) been convicted of an offence involving dishonesty, indecency or violence; or
 - (b) been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847; or
 - (c) any other reasonable cause.
- 2.2 The Licensing (Miscellaneous) Sub-Committee is authorised to determine applications for the grant, transfer, renewal or revocation of Hackney Carriage/Private Hire Licences relating to drivers, operators and vehicles.
- 2.3 Drivers of Hackney Carriages and Private Hire Vehicles must be in possession of a valid Hackney Carriage or Private Hire Vehicle (HC/PHV) Driver's Licence, depending which vehicle they wish to drive. On initial application, prior to the grant of a licence, and upon application to renew a licence a check is made with the Disclosure and Barring Service to see if the person has any cautions or convictions.

- 2.4 Information may also be received from the police in regard to current Hackney Carriage/Private Hire Vehicle (HC/PHV) Driver who has received a caution.
- 2.5 The penalty points scheme was introduced and is used to fill a gap between issuing a warning to drivers, proprietors and operators. Where a person has amassed 12 valid penalty points the Licensing (Miscellaneous) Sub-Committee will determine in accordance with Section 61(1)(b) if the person is suitable to hold a licence for any other reasonable cause.
- 2.6 Muhammad Shah Ali has held a Hackney Carriage/Private Hire Vehicle (HC/PHV) Drivers Licence since 22 December 2005. It expires on the 21 December 2016.
- 2.7 Muhammad Shah Ali has a total of 16 penalty points for the following:
- a) On 9 December 2014 – List No. 78 – ‘Operating a vehicle that is in breach of the relevant conditions – failing to display the roof sign’, for which the licence was endorsed with 3 Points, for a period of 5 years, issued by an authorised officer of the Licensing Authority.
 - b) On 9 December 2014 – List No. 82 – ‘Failure to display external plate as issued by the Licensing Authority’, for which the licence was endorsed with 4 Points for a period of 3 years, issued by an authorised officer of the Licensing Authority.
 - c) On 1 October 2015 – List No. 48 – S73(1)(b) – ‘Failure to comply with a requirement of a police officer’ – obstruction, for which the licence was endorsed with 3 Points for a period of 5 years, issued by the Licensing (Miscellaneous) Sub-Committee.
 - d) On 8 February 2016 – List No. 40 – S58(2) – ‘Failure to return a plate after notice has been given following expiry, revocation, or suspension’, for which the licence was endorsed with 6 Points for a period of 5 years, issued by an authorised officer of the Licensing Authority. Muhammad Shah Ali failed to appeal these 6 points in accordance with the Council’s Hackney Carriage and Private Hire Licensing Policy.
- 2.8 Muhammad Shah Ali attended the Licensing (Miscellaneous) Sub-Committee on 18 February 2016 to appeal the imposition of the 7 penalty points issued on 9 December 2014 on his HC/PHV Drivers Licence. The decision at the hearing was that the appeal against the imposition of the penalty points should be refused. The decision also included that if a further 2 points be issued, then the licence will be referred to the Licensing (Miscellaneous) Sub-Committee for consideration.
- 2.9 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and Amendments Order 2002, exempts applicants for HC/PHV Driving Licences from the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.

- 2.10 Any information will be presented at the meeting as the said information cannot be reproduced. Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication.
- 2.11 Members should not allow themselves to pre-determine or to be prejudiced in favour of or opposed to the application until they have had an opportunity to consider all the pertinent facts.
- 2.12 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

3. OPTIONS FOR CONSIDERATION

- 3.1 The options available to the Licensing (Miscellaneous) Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such information are as follows:

Option 1 – To take no action.

Option 2 – To warn the person regarding future conduct.

Option 3 – To issue points against the licence in accordance with Appendix I of the Council's Hackney Carriage and Private Hire Licensing Policy.

Option 4 – To add additional conditions to the licence or add conditions of obtaining a licence.

Option 5 – To suspend the licence for a set period of time.

Option 6 – To revoke the licence.

4. ANALYSIS OF OPTIONS

- 4.1 A criminal record does not debar an applicant from gaining or renewing a licence unless the authority considers the conviction(s) render the person unsuitable. In the first instance criminal records are checked against guidelines in respect of the Rehabilitation of Offenders Act 1974 and guidance produced in line with the Department of Transport Circular 2/92 and Home Office Circular 13/92. The analysis of the six options at paragraph 3.1 are as follows:

Option 1 – Members may choose to take no action when they feel that there is no case to answer. This option is unlikely as prior to any review the matter may have been considered by an Assessment Board of three officers- who will only refer matters to the committee where there is sufficient evidence for the matter to be considered.

Option 2 – Where the case has been upheld, but the committee does not feel the need to take more punitive action, a warning can be issued as to the future conduct of the driver. Should there be a re-occurrence then the driver could be referred back to the sub-committee.

Option 3 – Endorsing a Hackney Carriage and/or Private Hire Licence with penalty points provides a cost effective means of addressing the issue. It provides a balance between doing nothing and suspending/revoking the licence.

Option 4 – Conditions can be added to a Private Hire Vehicle Drivers Licence so long as they are reasonable. Conditions cannot be added to a Hackney Carriage Vehicle Drivers Licence. Additional requirements can be added to the conditions of obtaining the licence, for example a DBS can be requested every year and a requirement can be added that licences are renewed annually.

Option 5 – The licence could be suspended for a set period of time. Such an action would be punitive in nature.

Option 6 – The revocation of a licence is the ultimate action available to the sub-committee. Should the sub-committee feel that it is appropriate to remove the licence having considered all the evidence, the revocation can take immediate effect if it is deemed appropriate to protect the public. Revocation should be considered where it is deemed necessary to protect the public.

- 4.2 Should the Licensing (Miscellaneous) Sub-Committee revoke the licence or impose additional terms, conditions or restrictions then the applicant may appeal to a Magistrates Court within 21 days from the date on which he was notified of the decision. Should the Magistrates uphold the decision of the council, the applicant has further recourse to the Crown Court.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 There are no resource implications.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 6.1 Local Government (Miscellaneous Provisions) Act 1976
6.2 Town Police Clauses Act 1847

7. OUTCOMES OF CONSULTATION

- 7.1 Not applicable.

8. RECOMMENDATIONS

- 8.1 That the review be determined in accordance with the options outlined at paragraph 3 above, taking into account the Council's Hackney Carriage and Private Hire Licensing Policy.

DIRECTOR OF PLACES

Civic Centre
Scunthorpe
North Lincolnshire
DN16 1AB

Author: Sophie Whipps
Date: 30 March 2016

Background Papers used in the preparation of this report: -

Licence Holders file, except information protected by the Data Protection Act.