

# Public Document Pack



## NOTICE OF MEETING

<b>Meeting:</b>	<b>Licensing Committee</b>
<b>Date and Time:</b>	<b>Tuesday 7 November 2023 7.00 pm</b>
<b>Place:</b>	<b>Council Chamber</b>
<b>Enquiries to:</b>	<b>Committee Services committeeservices@hart.gov.uk</b>
<b>Members:</b>	<b>Smith (Chairman), Harward (Vice-Chairman), Clarke, Coburn, Collins, Crisp, Delaney, Farmer, Forster, Vernon and Woods</b>

Chief Executive

CIVIC OFFICES, HARLINGTON WAY  
FLEET, HAMPSHIRE GU51 4AE

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## AGENDA

**This Agenda and associated appendices are provided in electronic form only and are published on the Hart District Council Website.**

**Please download all papers through the Modern.Gov app before the meeting.**

- At the start of the meeting, the Lead Officer will confirm the Fire Evacuation Procedure.**
- The Chairman will announce that this meeting may be recorded and that anyone remaining at the meeting has provided their consent to any such recording.**

**1 MINUTES OF THE PREVIOUS MEETING (Pages 4 - 5)**

The minutes of the meeting held on 5 September 2023 are attached for confirmation and signature as a correct record.

**2 APOLOGIES FOR ABSENCE**

To receive any apologies for absence from Members\*.

**\*Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they will be absent.

**3 DECLARATIONS OF INTEREST**

To declare disclosable pecuniary, and any other, interests\*.

**\*Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they may have an interest to declare.

**4 CHAIRMAN'S ANNOUNCEMENTS**

**5 FEES AND CHARGES (Pages 6 - 10)**

The purpose of this report is for Licensing Committee to consider the fees and charges for taxi licensing services relating to hackney carriage and private hire vehicles, drivers and operators.

**Recommendation**

Licensing Committee are recommended to:

- a) agree that the 2023/24 fees and charges relating to hackney carriage and private hire vehicles, drivers and operator's licences should remain the same for the 2024/25 financial year.

## **6 REPORTS FROM LICENSING HEARINGS (Pages 11 - 27)**

The Committee to **note** minutes, decision notice and exempt minutes from the following Licensing Hearings:

### **7 June 2023 - Application for a new premises licence for Liquor and Vape Store, 158 Aldershot Road, Church Crookham, Fleet**

Summary of Decision: The licence was approved subject to conditions

### **2 August 2023 – Hackney carriage driver licence – penalty points hearing (exempt)**

Summary of Decision: The licence was suspended until suitable retraining courses had been completed

### **31 August 2023 – Private hire vehicle licence renewal (exempt)**

Summary of Decision: The licence was granted for a one year extension

The Committee to further note upcoming Licensing Hearings:

- 13 November – Variation of a premises licence - The Wyvern Public House
- 21 November – Private hire vehicle renewal
- 24 November – Premises licence application – Asda petrol filling station, Reading Road South, Fleet
- 27 November – Hackney carriage licence renewal.

**Date of Publication: Monday 30 October 2023**

## LICENSING COMMITTEE

**Date and Time:** Tuesday 5 September 2023 at 7.00 pm

**Place:** Council Chamber

**Present:**

Smith (Chairman), Harward (Vice-Chairman), Farmer, Clarke, Coburn, Collins, Forster, Vernon and Woods

**In attendance:**

**Officers:**

Mark Jaggard, Executive Director Place

Robert Draper, Regulatory Services Manager - Basingstoke and Deane

Neil Hince, Environmental Health & Licensing Manager

Sharon Black, Committee Services Manager

### 7 MINUTES OF THE PREVIOUS MEETING

The minutes of 6 June 2023 were agreed and confirmed and signed as a correct record.

Proposed by Cllr Forster; Seconded by Cllr Clarke

### 8 APOLOGIES FOR ABSENCE

There were no apologies for absence.

### 9 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 10 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements.

### 11 HACKNEY CARRIAGE FARE REVIEW

Members of the Committee were reminded that when the tariff was revised in 2022, there was a request for an annual review. Since the revised fares were introduced there had been no objections raised by either members of the public or hackney carriage drivers.

Members noted:

- the current tariff for Hackney Carriage fares

- national rates for a 2-mile journey, of which Hart is the 32nd most expensive authority out of a total of 340 authorities
- comparison with adjacent authorities, which ranged between £8.20 (Hart and Wokingham) and £7.40 for a 2-mile journey

Members discussed:

- The options available – as outlined in the officer's report
- The proposed recommendation, which was to maintain the tariffs which were set in 2022, and to review annually
- Whether there should be a different rate for electric vehicles as an incentive for these to be purchased. However, it was noted that EVs incurred other increased costs, and that having different charges for different types of vehicles could cause confusion amongst the public
- That whilst fuel prices had dropped since last year, they were slowly increasing again
- The reduction in fuel prices had been offset by the cost of living increases in other areas

It was noted there had been a very small number of complaints relating to the cost of Hackney Carriages in Hart district against those in Basingstoke and Deane, primarily from residents in the boundary wards. However, it was noted that the Hackney Carriage fares do not apply to trips which cross a district administrative boundary.

Proposed by: Cllr Forster; Seconded by: Cllr Woods

Unanimously agreed

**Decision:**

The Committee agreed:

- to maintain the current Hackney Carriage tariff, and
- to continue ongoing annual reviews of the Hackney Carriage tariff, or sooner if required, whilst monitoring external factors.

The meeting closed at 7.18 pm

## LICENSING

**DATE OF MEETING: 7 NOVEMBER 2023**

**TITLE OF REPORT: PROPOSED LICENSING FEES AND CHARGES 2023-24**

**Report of: Executive Director – Place**

**Cabinet Portfolio: Regulatory**

**Key Decision: No**

**Confidentiality: Non-Exempt**

## PURPOSE OF REPORT

1. The purpose of this report is for Licensing Committee to consider the fees and charges for taxi licensing services relating to hackney carriage and private hire vehicles, drivers and operators.

## RECOMMENDATION

2. Licensing Committee are recommended to:
  - a) agree that the 2023/24 fees and charges relating to hackney carriage and private hire vehicles, drivers and operator's licences should remain the same for the 2024/25 financial year.

## BACKGROUND

3. Fees and charges fall within three different categories:
  - fees which are set by statute and cannot be amended by individual local authorities,
  - fees which are set locally to cover the reasonable cost of administering/managing those regimes, and
  - fees which are set locally but are subject to a cap/ maximum limit imposed by statute.
4. The hackney carriage and private hire, drivers and operator licences are 'fees which are set locally to cover the reasonable cost of administering / managing those regimes.
5. Most fees and charges are set at full Council in February each year as part of the budget process. The exception is fees and charges relating to hackney carriage and private hire vehicles, drivers and operator's licences. Where a Council proposes to amend these fees, they must be advertised for 28 days in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976. Licensing Committee considers these so that the advertising can take place ahead of the February budget meeting.
6. In February this year Licensing Committee approved the 2023/24 fees and charges for taxi licensing activities, which were increased by 10% from the previous year to reflect the consumer price inflation, plus a correction of the previous years published fees and charges.

## **MAIN ISSUES**

7. Where fees can be set by local authorities under the legislation the charges must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.
8. The hackney carriage and private hire, drivers and operator's fees can only be used for cost recovery of the licensing service under Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976. The cost recovery is restricted to the issuing of licences and some enforcement costs.
9. The licensing fees and charges reflect the Council's costs incurred. This relates to the costs to Hart District Council of Basingstoke & Deane Borough Council providing the Shared Licensing Service, the system costs, plus the management and oversight of Hart District Council and associated costs.
10. It is proposed to keep the fees and charges relating to hackney carriage and private hire vehicles and operator licences the same for 2024/25 financial year. This reflects the increased fees which were implemented in April this year. As a result, there is no need to consult on the fees and charges set out in Appendix 1.
11. All other fees and charges will be considered by full Council in February 2024.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

12. The alternative would be to increase the hackney carriage / private hire vehicles and private hire operator licences by consumer price inflation (CPIH). The rate for September 2023 is 6.7%. This would provide an increased cost to the taxi trade.

## **CORPORATE GOVERNANCE CONSIDERATIONS**

### **Relevance to the Corporate Plan**

13. Setting appropriate fees and charges for the licensing activities is integral to the section of the Corporate Plan relating to the provision of a resilient and financially sound Council.

### **Service Plan**

- Is the proposal identified in the Service Plan? No
- Is the proposal being funded from current budgets? Yes
- Have staffing resources already been identified and set aside for this proposal? Yes

### **Legal and Constitutional Issues**

14. The fees and charges must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities. The hackney carriage and private hire, drivers and operator's fees can only be used for cost recovery of the licensing service under Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976. The cost recovery is restricted to the issuing of licences and some enforcement costs.

## **Financial and Resource Implications**

15. The licensing fees and charges can only reflect the Council's costs incurred. This relates to the cost to Hart District Council of Basingstoke & Deane providing the Shared Licensing Service, the system costs, plus the management and oversight of Hart District Council and associated costs.
16. If the fees and charges were increased by the consumer price inflation (CPIH) rate for September 2023 of 6.7% there would be an increased income to the Council in 2024/25. This would amount to less than £10,000.

### **Risk Management**

17. Significant under-recovery of fees and charges poses a risk to corporate finances as the Council will still have to provide statutory services and functions. Over recovery of fees by charging in excess of the statutorily recoverable elements may result in legal action from the affected parties. This can cause reputational and/or financial risk.

## **EQUALITIES**

18. This report has no impact upon equalities.

## **CLIMATE CHANGE IMPLICATIONS**

19. There are no direct climate change implications impacts arising from the recommendations. Issues of vehicle emissions are dealt with under the Council's Taxi Licensing Policy.

## **ACTION**

20. If the Licensing Committee agree that the hackney carriage / private hire vehicles and private hire operator licences should not increase in 2024/25 there is no further actions required.

## **Appendix**

### Appendix 1:

Current and proposed fees and charges for hackney carriage and private hire, drivers and operator's licences.



**APPENDIX 1**

**Current and proposed fees and charges for hackney carriage and private hire, drivers and operators licenses**

All fees rounded to the nearest pound

<b>Vehicles</b>	<b>Approved Charge for 2023/24 £</b>	<b>Proposed charge for 2023/24 £</b>
Private hire vehicle (new)	284.00	284.00
Hackney carriages vehicle (new)	284.00	284.00
PH vehicle (renewal)	284.00	284.00
HC vehicle (renewal)	284.00	284.00
PH exemption vehicle (new)	284.00	284.00
PH exemption vehicle (renewal)	284.00	284.00
Wheelchair accessible vehicle (new)	132.00	132.00
Wheelchair accessible vehicle (renewal)	132.00	132.00
PH temporary vehicle licence	117.00	117.00
HC temporary vehicle licence	117.00	117.00
PH/HC replacement rear plate	33.00	33.00
Change of licence type PH to HC	45.00	45.00
Change of licence type HC to PH	45.00	45.00
PH transfer of vehicle ownership. Per vehicle.	91.00	91.00
HC transfer of vehicle ownership. Per vehicle.	91.00	91.00
PH transfer of licence to new vehicle	275.00	275.00
HC transfer of licence to new vehicle	275.00	275.00
Replacement paper licence	22.00	22.00
Change of vehicle registration (private reg)	45.00	45.00

**APPENDIX 1**

<b>Drivers</b>	<b>Approved Charge for 2022/23 £</b>	<b>Proposed charge for 2023/24 £</b>
PH drivers - 3 Year (new)	315.00	315.00
HC drivers - 3 Year (new)	315.00	315.00
Combined private and hackney carriage licence - 3 Year (new)	315.00	315.00
PH drivers - 3 year (renewal)	272.00	272.00
HC drivers - 3 year (renewal)	272.00	272.00
Combined private and hackney carriage licence - 3 Year (renewal)	272.00	272.00
Driver Awareness / Knowledge Test (DAT)	36.00	36.00
DBS fee	44.00	44.00
Medical advisor fee	33.00	33.00
Replacement driver badge	22.00	22.00
Replacement paper licence	22.00	22.00

<b>Operators</b>	<b>Approved Charge for 2022/23 £</b>	<b>Proposed charge for 2023/24 £</b>
PH operators - 5 Year (5 vehicles or less)	350.00	350.00
PH operators - 5 Year (6 vehicles or more)	610.00	610.00

## LICENSING HEARINGS

**Date and Time:** Wednesday 7 June 2023 at 11.00 am

**Place:** Council Chamber

**Present:**

Collins (Chair), Delaney and Smith

**In attendance:**

Mr Varinder Singh Bhandal (applicant)

Mr Graham Carruthers

Mr Panchal (agent's associate)

**Officers:**

Francis Umukoro, Shared Legal Services

Debbie Berry, Shared Legal Services

Angela Semowo, Licensing Officer

Jenny Murton, Committee and Member Services Officer

Emma Evans, Committee and Member Services Officer

### 1 APPOINTMENT OF CHAIRMAN

Councillor Collins had been appointed Chairman for this Hearing.

### 2 DECLARATIONS OF INTEREST

None declared and there were no objections to the Members on the Panel.

### 3 APPLICATION FOR PREMISES LICENCE - LIQUOR AND VAPE STORE, 158 ALDERSHOT ROAD, CHURCH CROOKHAM, FLEET, GU52 8JT

The Chairman welcomed everyone to the Hearing and all those present introduced themselves.

The Chairman confirmed that no representations had been withdrawn.

The Licensing Officer summarised the application contained in her report. She confirmed that within the 28-day consultation period four valid representations had been received opposing the application which related to the possibility that neighbouring residents would be affected by noise nuisance and anti-social behaviour and the possibility of youths congregating outside the premises.

No representations had been received from any of the Responsible Authorities.

There were no questions about the Officer's report.

The Agent's Associate presented the application and explained his client's (the Applicant) 12-year experience in the Licensing trade. He also explained the staff

training schedule and procedures, the importance of the challenge 25 policy and a refusal book, the use of CCTV and how this will be operated and monitored.

He highlighted that the Applicant planned to have no deliveries between 7pm and 8am.

Members further questioned the time that deliveries would be permitted.

Members also questioned the Applicant further on how credible he felt asking customers to leave the premises would ensure that customers left the store quietly to respect residents and the tenant living above the premises.

Members asked the Applicant if he planned to sell any other goods apart from vapes and alcohol and he replied he was looking at selling snacks, American sweets and crisps, confectionary and possible slushy drinks in addition.

Mr Carruthers opposed the application as well as his daughter who lives above the premises. Mr Carruthers spoke on behalf of his daughter who could not attend the Hearing.

Mr Carruthers informed the group he was concerned about the proposed opening hours, that were 7am until 10pm.

He said he appreciated the existing sound proofing that the dwelling above the premises has, but stated he does not believe it is soundproof.

Mr Carruthers confirmed that he does not object to an off licence operating in principle but asked the Committee to consider reducing the proposed opening hours.

The Agent's Associate asked Mr Carruthers to provide more detail on the existing sound proofing and this was discussed.

The Chairman thanked all parties for their contributions.

The Licensing Officer reiterated that the Applicant had asked for a condition to be included in the Licence preventing any deliveries to be carried out between 7pm and 8am.

The Agent's Associate summarised that his client planned to do more work on the premise's soundproofing and highlighted that the opening hours proposed are less than the core hours permitted.

Members had no further questions and adjourned from 11:28am until 1:04pm.

The Chairman welcomed the group back and read out the Decision Notice. This Notice is included in full in the Minutes.

## **DECISION NOTICE**

The meeting closed at 1.14 pm



Basingstoke  
and Deane



working together

Shared Legal Services  
Basingstoke and Deane Borough Council  
Hart District Council  
Civic Offices, London Road,  
Basingstoke, Hampshire RG21 4AH  
[www.basingstoke.gov.uk](http://www.basingstoke.gov.uk) | 01256 844844

**DECISION NOTICE**  
**OF THE LICENSING SUB COMMITTEE**  
**AT HART DISTRICT COUNCIL**  
**ON 07 June 2023**

**22/00228/LAPRE: APPLICATION FOR NEW PREMISES LICENCE - LIQUOR AND VAPE STORE, 158 ALDERSHOT ROAD, CHURCH CROOKHAM, FLEET, GU52 8JT**

The Licensing Sub Committee has carefully considered all the evidence regarding the application for a premises licence at Liquor and Vape Store, 158 Aldershot Road, Church Crookham, Fleet, GU52 8JT and listened to the representations from the Applicant's agent, the Applicant, and the Interested Party. The Committee has also had regard to the written representations. The Committee has decided having regard to all the circumstances to grant the application for a new premises licence in accordance with S18(4) of the Licensing Act 2003. The licence will be granted in accordance with the application, the operating hours and floor plan as applied for.

The proposed steps to promote the Licensing Objectives listed on the application form shall be included in the licence, and as stated below:

**General conditions**

- Strict implementation of challenge 25 policy.
- CCTV to be installed and 31 days recording system.
- All staff to be trained in responsible alcohol retailing.

**The prevention of crime and disorder objectives**

- CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and authorised Officers from the council.



- The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.
- The CCTV system shall display on any recordings, the correct date and time of the recording.
- A member of staff trained in the use of the CCTV system shall be available at the premises at all times that the premises are open to the public.
- A CCTV camera shall be installed to cover the entrance of the premises and further cameras installed to cover the internal area and servery counter.
- A suitable intruder alarm complete with panic button shall be fitted and maintained.
- An incident log shall be kept at the premises, and made available for inspection on request to an authorised officer of the council or the Police, which will record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
- Staff training must be documented and based on legislation and operating procedures. All training shall be signed and dated, and a copy of such records will be available for inspection by Police and local authority enforcement officers.
- All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment.

#### **Public safety objectives**

- Installation of appropriate safety equipment

- Fire exit signs displayed
- CCTV working at all times

#### **The prevention of public nuisance objectives**

- Notice displayed asking customers to leave quietly from premises also customers will be told in person to leave quietly and not to disturb the local neighbourhood
- Strict policy in place to tell all staff not to serve alcohol to drunk people at all
- Appropriate signage will be displayed, in a prominent position informing customers they are being recorded on CCTV

#### **The protection of children from harm objectives**

- A challenge 25 policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. Challenge 25 posters displayed where alcohol is sold.
- The only acceptable ID will be those with photographic identification documents, including passport, photo-card, driving license or proof of age card bearing the PASS hologram.
- A refusal book shall be kept at the premises and updated as and when required and made available for inspection on request to a Licensing Officer, Police or other responsible authority.
- A sign stating "No proof of age – No sale" shall be displayed at the point of sale.

#### **Conditions imposed by the Sub Committee**

The Committee has also in addition to the above conditions, decided to impose the following conditions:

- No deliveries to the premises shall take place between 19:00 to 08:00 hours, 7 days a week.
- The business shall not open until the Applicant has sought advice from the Noise Pollution Team at Hart District Council with regards to sound proofing, and to carry



out any recommended sound proofing improvements between the retail unit and the residential flat above.


**Reasons**

Members considered that this would promote the licensing objective of public nuisance having listened to the representations from all parties.

The Licence will also be granted subject the relevant mandatory conditions stated in the Licensing Act 2003.

In making this decision the Sub Committee have considered representations from all the parties, Guidance made under S182 of the Licensing Act 2003 and Hart District Council's Licensing Policy. The decision is considered proportionate and appropriate to promote the licensing objectives.

You have 21 days from the date of receipt of the decision notice to appeal this decision.

Chair:  \_\_\_\_\_

Date: 8 June 2023

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Exempt from Publication



**DECISION NOTICE OF THE LICENSING SUB-COMMITTEE AT HART DISTRICT  
COUNCIL  
ON 2 AUGUST 2023**

████████████████████

**REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE BADGE NO: ██████████**

The Licensing sub-committee has carefully considered all evidence presented at the hearing and listened to the representations from both the Licensing officer and the Applicant.

The sub-committee has decided having regard to all the circumstances to suspend the licence for six months from the date of this decision notice in accordance with Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. The suspension is to be of immediate effect. Further, should ██████████ successfully complete a half day Taxi and Chauffeur Driver Training course (advanced-driving.co.uk), this will end the period of suspension.

In reaching this decision, the sub-committee have had regard to the Council's Hackney Carriage and Private Hire Licensing Policy, The Institute of Licensing's guidance and The Department for Transport Statutory Taxi and Private Hire Vehicle Standards

The sub-committee considered the report of the Licensing Officer and heard directly from the Licensing Officer that: -

- ██████████ was granted his first one-year HCD licence on 3rd July 2008.
- Since November 2020, ██████████ has been subject to three driving offences 3 as follows: -
  - SP50 - Exceeding speed limit on a motorway on 28/11/2020
  - SP30 – Exceeding statutory speed limit on a public road on 29/07/2021
  - SP30 – Exceeding statutory speed limit on a public road on 11/09/2022
- On the 15 June 2023, officers received Mr ██████████ Hackney Carriage Drivers renewal application form. Question 7 on the application form required applicants to declare any changes to their medical, criminal and driving history. ██████████ circled 'no change'.

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- Page 2 of the application asked for any additional details to these changes but was left blank.
- On the 23 June 2023 Mr [REDACTED] submitted his DVLA Driver Check Code which is a requirement for each driver renewal application. The results of the DVLA check showed Mr [REDACTED] had attained 9 DVLA penalty points on his driving licence from three separate offences.
- Drivers have a duty to inform the licensing team about the issue of DVLA endorsements. [REDACTED] did not notify the licensing team of these offences.
- [REDACTED] was sent a letter on 3rd July 2023 from the Shared Service Licensing Team Leader to explain that the breach of licence condition on his licence would result in the issue of 18 penalty points (6 per breach) in accordance with the council's policy and that his licence would therefore have to be reviewed by a Licensing sub-committee.
- [REDACTED] replied by letter in which he expressed remorse for his oversight. He admitted his non-disclosure was ignorant but not intentional. He has apologised and shown remorse for this.
- The Council Penalty Points Scheme (PPS) is contained within Hart District Council Hackney Carriage and Private Hire policy.

In responding to questions from members of the sub-committee, the licensing officer confirmed that the last application for renewal was made in 2020 but could not confirm whether DVLA checks were carried out. The officer confirmed that the first of the 3 offences was committed shortly after Mr. [REDACTED] licence was renewed in 2020. Mr. [REDACTED] then told the sub-committee that his current application was the first application that required him to provide the DVLA code and that it had never been requested in previous renewal applications.

The licensing officer in response to a question from the sub-committee confirmed that Mr. [REDACTED] licence remained active.

The sub-committee next heard directly from Mr. [REDACTED] who apologised for his actions and reiterated what he had said in his letter dated 11<sup>th</sup> July 2023. He told the sub-committee that he had been driving for 15 years and asked the sub-committee to consider his unblemished record when deciding his punishment. He told the sub-committee that he believed that he was "one of the good ones" as he always acted according to the law and had always had a good relationship with the Council. He told the sub-committee that when he renewed his previous application 3 years ago, he did have DVLA penalty points which he did not declare and so he believed he did not have to declare the current DVLA points.



He told the sub-committee that he was being honest when he filled out the form and as he had not declared speeding offences previously, he did not think he had to. He thought the form referred to more serious offences like drink driving etc.

He now appreciates the seriousness of his actions and expects punishment but requested that the sub-committee take into account his record. He said he had never had issues with safety and that his passengers if asked would confirm this. He was confident that references could be provided. He admitted he had been 'foolish' and 'complacent'. He knew the DVLA points would be disclosed when he provided the code but did not feel he had done anything wrong at the time.

When asked if he was aware of the Council's Policy, Mr [REDACTED] responded that he was aware of it but had only skimmed through it and thought he was ok. He told the sub-committee that he had now looked carefully at the policy.

He also told the sub-committee that he was not speeding excessively. He had a lapse in concentration as his recorded speed was over 40 in a 40 mile zone. He confirmed to the sub-committee that his speed was recorded by speed cameras. When asked by the sub-committee whether he had passengers in the taxi when the speed was recorded, he confirmed that on one occasion he was returning home and was alone in the vehicle but he could not recall whether he had passengers in the taxi on the other 2 occasions.

In his closing remarks, he reiterated that he had no excuse and no defence other than ignorance and not having understood the policies. He asked the sub-committee to be lenient with him.

## Assessment

Members considered the Council's policy and initially felt that there were 2 main issues to consider. The first being paragraph 36 of appendix F which provides: -

"A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone and had not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed"

Members felt that if they were to apply this policy, considering that Mr. [REDACTED] already had 9 penalty points, they would have no choice but to revoke his licence. However, members noted that the current policy was adopted in 2021 therefore the first of the 3 offences fell outside of this policy as there was not an equivalent provision in the old policy of 2017. The closest is the extract from the previous 2017 policy which provides as follows:-



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“2.1 Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc should not prevent a person from proceeding with an application. However, if sufficient penalty points have been accrued to require a period of disqualification of the applicants DVLA driving licence, then a licence may be granted after its restoration but a warning will be issued as to future conduct.”

Based on this, members took the view that only the latter 2 offences should be considered in which case the total DVLA points amounted to 6 therefore paragraph 36 of Annex F of the Council’s current policy did not apply.

Members then turned their attention to Appendix 6 of the Councils policy which sets out the penalty points scheme in paragraph 10.

No 9 of the penalty points table provides that failing to notify the Council of details of a conviction or offence within the prescribed time limit would attract 6 points.

However, the penalty point scheme was only introduced in April 2021 therefore the first of the three offences which was committed in 2020 falls outside of this scheme. There was no equivalent provision in the 2017 policy. Members therefore concluded that the total number of penalty points accrued by Mr. [REDACTED] was 12 and not 18.

Notwithstanding, a total of 12 penalty points rightfully triggered the necessity for Mr. [REDACTED] licence to be reviewed by the licensing sub-committee.

Members of the sub-committee noted that the overall purpose of the licensing regime for taxi licensing is to ensure public safety by ensuring that drivers are fit and proper and comply with their licensing obligations to ensure the safety of passengers. Although “fit and proper” is not defined legally, members have considered the widely used test of:

“Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

The Department for Transport Statutory Taxi and Private Hire Vehicle Standards states at para 5.14: -

“...that the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee would be made on the balance of probability. This means that the applicant or licensee should not be given the benefit of doubt. If the committee or delegated officer is only “50/50” as to whether the applicant or licensee is “fit and proper” they should not hold a licence”.

The sub-committee found that Mr [REDACTED] had breached the condition requiring him to notify the Licensing Team of motoring offences on 2 separate occasions which resulted in 12 penalty points under the Council’s policy. This behaviour fell below the standard that the Council would expect from a Hackney Carriage Driver.



working together

However, in view of the evidence, the sub-committee concluded that revocation was not justified and that a suspension was a proportionate deterrent to prevent further similar behaviour.

The sub-committee decided that on the balance of probabilities and considering his previous "unblemished" record, this oversight although unacceptable did not warrant the revocation of his licence.

In deciding the appropriate action, and taking into account Mr. [REDACTED] remorse and cooperation, members considered the following options:

- Take no action
- Issue verbal warning or advice
- Issue written warning or
- Suspend or revoke the Hackney Carriage Licence under S61 of the Local Government (Miscellaneous Provisions) Act 1976

For the reasons set out above the sub-committee decided not to revoke the licence but also decided that it was not appropriate to issue warnings or take no further action as Mr. [REDACTED] by his own admission had in previous years obtained DVLA penalty points so there is a history of speeding offences. He had also not looked properly at the current policy which resulted in him failing to notify the council of his DVLA penalty points. However, members did not consider on a balance of probability that he was dishonest in completing his form.

In deciding to suspend Mr [REDACTED] licence, the sub-committee considered whether such a decision should take immediate effect under section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 for public safety reasons and concluded that the history of speeding offences posed a threat to public safety.

**DECISION:**

The sub-committee in accordance with section 61 (1)(b) Local Government (Miscellaneous Provisions) Act 1976, decided to suspend Mr [REDACTED] licence. The suspension shall take immediate effect under Section 61(2B) and shall be for a period of 6 months or until Mr [REDACTED] provides evidence of successful completion of a Taxi and Chauffeur Driver Training (advanced-driving.co.uk) course, whichever is the sooner.

You have 21 days from the date of receipt of the Notice letter to appeal against this decision to the Magistrates' Court.

Chair..... [REDACTED] .....

Dated..... 7th August 2023 .....

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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