



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

[REDACTED]

REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE BADGE NO: [REDACTED]

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 [REDACTED] 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: -

- [REDACTED] was granted his first one-year HCD licence on 3rd July 2008.
- Since November 2020, [REDACTED] 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 [REDACTED] 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. [REDACTED] 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 11th 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.

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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