



## Regulatory Subcommittee

14:00 to 17:45

10 June 2019

Present: Councillors Ryan (chair), Brociek-Coulton and Giles

Apologies: Councillors Fulton-McAlister (E) (vice chair) and Price

(Members of the committee received copies of the Byelaws, Regulations & Conditions Applicable to Hackney Carriage and Private Hire Vehicles, Proprietors, Drivers and Operators" (the Green Book) at the meeting.)

### 1. Declarations of Interest

There were no declarations of interest.

### 2. Exclusion of the Public

**RESOLVED** to exclude the public from the meeting during consideration of items 3\* and 4\* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

### 3\* Suspension/revocation of Norwich City Council hackney carriage drivers licence No 16/01887/HACKD (Paragraph 3)

(The licence holder, his solicitor, the chair of the Norwich Hackney Trade Association and two hackney carriage drivers (supporting the licence holder), the civil enforcement officer, and licensing officer were admitted to the meeting.)

The licensing assistant introduced the report and said that the case had been deferred from the meeting on 13 May 2018 to enable the licence holder to obtain legal advice.

The solicitor on behalf of the licence holder said that his client did not agree that he had received a police caution after the incident. A request to the police under Freedom of Information for clarification had not yet been received. He therefore asked the subcommittee to exclude the police statement from consideration, as set out in appendix B to the report, when making its decision, given the confusion on this matter and out of fairness to his client, as a caution would be construed as admission of guilt.

The chair then asked for the licence holder and his supporters, and the civil enforcement officer and licensing officer to leave the room to allow the subcommittee to seek the advice of its legal advisor.

(The licence holder, his supporters, the civil enforcement officer and licensing officer left the meeting at this point. The licence holder, his solicitor, the chair of the Norwich Hackney Trade Association, civil enforcement officer and the licensing officer were then readmitted. It was established that one of the supporters would be called as a witness, and he left the room, together with the other taxi driver in attendance.)

The chair announced that the subcommittee was happy to proceed on the basis that the police caution was not in existence.

The solicitor and licence holder gave their account of the circumstances of the incident which took place on 25 February 2019. The licence holder said that he had lived in Norwich for 22 years and been a taxi driver for the last 10 years. He explained that he pulled into the bus stop outside Primark on St Stephens Street, so as not to obstruct traffic while he waited for a space to become available in the taxi rank, and had become hemmed in by buses on either side. The civil enforcement officer had issued a ticket and put his hand into the licence holder's cab. The licence holder then said that the civil enforcement officer was seen walking up and down the street. When the licence holder finally pulled into the taxi rank he considered that the civil enforcement had followed him there. (The licence holder showed pictures on his phone of the civil enforcement officer showing his hand held device to the licence holder through the cab window and patrolling the pavement.) The civil enforcement officer had reported the licence holder to the police. The licence holder said that he did not normally swear but considered that he had been provoked and was angry at being treated unfairly.

The civil enforcement officer said that he had been instructed to patrol St Stephens Street because a councillor had received a complaint from the bus companies about taxi drivers waiting in the bus stops. All civil enforcement officers received a daily briefing and been briefed to patrol St Stephens Street as their presence would act as a deterrent to prevent taxi drivers parking in the bus stops and creating a hazard to traffic. He then explained that he had taken photographs of the taxi in the bus stop and was only aware the identity of the driver when he went to the driver's window to show him the ticket on the hand held device. He pointed out that the Green book required taxi drivers to proceed to the next taxi rank if it was full rather than stop and wait. The fact that this driver was blocked by buses was that he had no right to be parked in the bus stop. The licence holder had sworn at him in front of members of the public and young people. It was his duty as a council officer to report such behaviour to the police. He had then carried on with his patrol. Another taxi driver had been waiting for a space in the taxi rank and when the civil enforcement officer reached the taxi rank he had received further verbal abuse from the licence holder. A member of the public volunteered to act as a witness to the police. He did not think that the issue of a ticket to this licence holder was unfair.

The licence holder alleged that the civil enforcement officer had discussed the hearing with other taxi drivers in the rank. He said that other taxi drivers had sworn at the civil enforcement officer at the rank on the day of the incident. The civil

enforcement officer responded by saying that some taxi drivers at Gaol Hill had referred to the incident but he had not been obliged to comment.

The civil enforcement officer then answered questions from the chair about the incident and the circumstances where an instant penalty notice would be issued.

Members of the subcommittee then asked questions to the licence holder about his conduct on the day of the incident. The licence holder maintained that other taxi drivers had sworn at the officer and that his had been the only name taken. He reiterated that he did not normally swear but had been provoked by the officer.

The civil enforcement officer then reiterated that he had been carrying out his duties as requested and that the licence holder had been the only driver that had sworn at him. He then answered members' questions about the sequence of events leading to him reporting the licence holder to the police. He had provided the police with the witness's details.

In reply to the subcommittee's legal advisor, the licence holder confirmed that he had not appealed against the parking ticket. He also said that other taxi drivers had also sworn at the civil enforcement driver that day and that it was unfair that he was the only driver who had received a penalty.

(The witness for the licence holder was then admitted to the meeting.)

The witness explained that he also had been waiting for a space on the taxi rank that day and had been told by the civil enforcement officer that he was blocking the highway. There were only 6 spaces for 20 taxies working from the rank. He answered questions from the chair and said that he had seen the incident at the taxi rank and no other taxi drivers had sworn at the civil enforcement officer.

The civil enforcement officer said that the taxi rank was full at the time and that the witness had been driving at a slow pace waiting for a space to become available. He pointed out that this meant that buses were behind schedule. He pointed out that buses needed to stop at bus stops where there was a raised platform. He explained that the licence holder had been issued a ticket because he had prevented buses from accessing the bus stop.

(The witness left the meeting at this point.)

The chair of the Norwich Hackney Trade Association gave a character witness of the licence holder's record of good service to his passengers, many of them vulnerable people and that he was a credit to the industry. The solicitor produced a letter from the licence holder's employers also stating that the licence holder was of good character.

The solicitor summed up on behalf of the licence holder reiterating the evidence that had been considered at the meeting. In mitigation he said that his client admitted to swearing but considered that he had been provoked by the civil enforcement officer. The member of the public who had offered to become a witness had not come forward. He asked members to take into account the licence holder's character references and previous good conduct and that as this was a one-off incident the

subcommittee should consider issuing a warning rather than revoking the licence holder's licence.

The chair invited the civil enforcement officer to explain what had been the purpose of showing the licence holder his hand held device when he was still parked in the bus stop. The civil enforcement officer said that it was normal practice when issuing a ticket to show the photographic evidence. At that point the licence holder had been swearing at him. He could see that the licence holder was blocked in by the buses. The purpose of showing the hand held device was to demonstrate that he had evidence that the licence holder was parked in the bus stop. The licence holder commented that the production of the evidence that he was in a bus stop when he was still in the bus stop was superfluous. The solicitor said that this action could be deemed as provocative.

In answer to a question, the solicitor said on behalf of his client that the witness had said that he had not heard any other taxi drivers swear at the civil enforcement officer and pointed out that St Stephens Street was a busy thorough fare and it was probable that the witness probably had not heard it.

(The licence holder, his solicitor and the chair of the Norwich Hackney Trade Association, civil enforcement officer and the licensing assistant left the meeting at this point.)

**RESOLVED**, unanimously, having taken into consideration the licence holder's previous good character, not to take any further action but to issue a strong warning to the licence holder No 16/01887/HACKD regarding his future conduct and that hackney carriage drivers are expected to conduct their selves in a professional manner and to never use swear words.

(The licence holder, his solicitor and the licensing assistant were readmitted to the meeting and informed of the subcommittee's decision. The licence holder was asked to produce his DVLA licence for inspection by the committee. The chair advised the licence holder that he would receive written notification of the subcommittee's decision, together with a strong warning regarding his behaviour and was directed to familiarise himself with the contents of the Green book. The licence holder, his solicitor and the licensing assistant left the meeting.)

**4\* Application for Renewal of a Hackney Carriage Drivers Licence: Case Number 19/00123/HACKD (Paragraph 3)**

(The applicant, his translator and the licensing assistant were admitted to the meeting. The applicant confirmed that he was aware that he could have legal advice but had chosen not to be represented. The applicant produced his DVLA licence and confirmed his address.)

The licensing assistant presented the report.

The applicant explained the circumstances relating to his convictions on 3 September 2018 and 14 February 2017 and answered members' questions. He explained that the incident leading to the conviction on 14 February 2017 related to his divorce and the custody of his children. In relation to the speeding conviction dated 3 September 2018, the applicant confirmed that there were no passengers at

the time.

(The applicant, his translator and the licensing assistant left the meeting but were then readmitted to allow further questioning of the applicant.)

The applicant explained that he had failed to contact the council within 7 days of his convictions because he had rang the council's licensing office to be told that he only needed to raise the issue of his convictions when he renewed his licence. The translator provided further information about the applicant's domestic situation.

(The applicant, his translator and the licensing assistant left the meeting.)

**RESOLVED**, with 2 members voting in favour and 1 against, to grant a hackney carriage drivers licence (case number 19/00123/HACKD) initially for a period of 12 months and to delegate the renewal for a further two years licence to the licensing manager, and to advise the applicant that he should familiarise himself with the Green book, in relation to his conduct and reporting convictions to the licensing authority within 7 days.

(The applicant, his translator and licensing assistant were readmitted to the meeting and advised of the subcommittee's decision. The chair advised the licence holder that he would receive written notification of the subcommittee's decision, together with a strong warning regarding his behaviour and was directed to familiarise himself with the contents of the Green book. The licence holder, his translator and the licensing assistant left the meeting.)

**5\*      Application for Grant of Private Hire Drivers Licence – Application ref. 19/01052/PHDRIV (Paragraph 3)**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced a copy of his DVLA licence which was circulated for inspection. A supplementary report was circulated at the meeting with the consent of the applicant. The applicant confirmed that he had received copies of the reports and that he was aware that he could have legal advice but had chosen not to be represented.)

The licensing assistant presented the report.

The applicant then explained the circumstances of his convictions and answered members' questions. He said that following the hearing at Broadland District Council, he had made a statutory declaration at Norwich Magistrates' Court in relation to the conviction on 11 November 2018. He explained that he had been living with his parents and a family member had been driving the car at the time of the offence. The applicant had not changed the address on his licence, had not received any notifications from the DVLA and therefore was unaware of the offence. The court could decide to prosecute him for failure to advise the DVLA of his change of the address but this would only be 3 points on his licence and not the 6 points awarded for failing to give information on the identity of a driver. The applicant advised the subcommittee of his family responsibilities. He confirmed that at the time of the speeding conviction there had been no passengers in the vehicle.

(The applicant produced a character reference from his employer which was

circulated at the meeting.)

(The applicant and the licensing assistant left the meeting.)

**RESOLVED**, unanimously, to grant a grant of private hire drivers licence – Application Ref. 19/01052/PHDRIV, initially for a period of 12 months and to delegate the renewal for a further two years licence to the licensing manager, and to advise the applicant that he should familiarise himself with the Green book, in relation to his conduct and reporting convictions to the licensing authority.

(The applicant and licensing assistant were readmitted to the meeting and advised of the subcommittee's decision. The chair advised the licence holder that he would receive written notification of the subcommittee's decision, together with a strong warning regarding his behaviour and was directed to familiarise himself with the Green book. The legal advisor to the subcommittee advised the applicant that he was obliged to notify the council's licensing authority within 7 days of any convictions imposed upon him.)

CHAIR