

Appeals Committee – 2 March 2016

Minutes of the meeting of the **Appeals Committee** held on **2 March 2016** when there were present:-

Chairman: Cllr Mrs C A Weston
Vice-Chairman: Cllr B T Hazlewood

Cllr K H Hudson
Cllr R A Oatham

Cllr Mrs B J Wilkins

APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Mrs D Hoy.

OFFICERS PRESENT

C Todman	- Solicitor
J Fowler	- Senior Licensing Officer
M Pinnington	- Trainee Solicitor
M Keogh	- Hackney Carriage Enforcement Officer
S Worthington	- Committee Administrator

38 MINUTES

The Minutes of the meeting held on 3 June 2015 were approved as a correct record and signed by the Chairman.

39 PROCEDURE DOCUMENT

The Committee noted that item 4 of the Agenda would be deferred to a meeting of this Committee scheduled for 15 March 2016.

40 HACKNEY CARRIAGE DRIVER'S LICENCE AND HACKNEY CARRIAGE VEHICLE LICENCES

The Committee noted that item 6 of the Agenda would be deferred to a meeting of this Committee scheduled for 15 March 2016.

41 PROCEDURE DOCUMENT

The Committee noted the procedure to be followed in hearing the appeal.

Exclusion of the Press and Public

Resolved

That the press and public be excluded from the meeting for the remaining business on the grounds that exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 would be disclosed.

42 HACKNEY CARRIAGE DRIVER'S LICENCE

The Committee considered the exempt report of the Assistant Director, Legal Services relating to a hackney carriage driver's licence appeal.

The Committee noted that the driver was not present for the hearing, despite a notice of hearing being hand delivered to him on 15 February 2016 and the agenda and relevant papers hand delivered to him on 23 February 2016 and attempts made to contact him by telephone that morning. The Committee deemed it appropriate to hold the hearing in the driver's absence as the driver had received sufficient notice of the hearing; the subject matter of the hearing was suggestive of the fact that the driver had disregarded warnings given by this Committee in 2014, the contents of which concerned the same or similar breaches as established at the 2014 hearing; and as a result of the need to protect the wider public interest. The Committee, in addition, took into consideration the fact that the driver had a right of appeal to the Magistrates' Court.

The Committee considered all the exempt evidence circulated in advance of the hearing, giving particular weight to the written evidence provided in the statement detailed on page 8.10 of the exempt appendices to the officer's report, and oral evidence and clarifications provided at the meeting.

In response to questions asked during the course of the hearing, the following points were noted:-

- Drivers can ask customers for money up front for journeys, but if money given to the driver before the start of the journey exceeds the amount on the meter at the end of the journey, any difference should be refunded to the customer.
- A journey from Rayleigh to Wickford would cost approximately £13.00, plus any waiting time, which was lower than the £50.00 fee demanded by the driver.
- The taxi company which the driver had worked for had received several complaints about the driver from a variety of different sources, ranging from customers and drivers from outside the district. The driver no longer operated directly for the same company, but for a smaller subsidiary, as the company was concerned about the risk to its reputation of the driver continuing to drive for them.
- The driver rented a taxi from a rental company and did not own the taxi.
- The driver had managed to obtain fares from outside the district, in Southend, by waiting outside particular venues; however, any such fares should, according to the licensing conditions, be obtained by means of pre-booked fares.

- All taxi drivers licensed with this authority have to know the content of the licensing conditions as part of passing the Knowledge Test.

Although the Committee was mindful that revocation of the driver's combined hackney carriage and private hire driver's licence might result in the loss of the driver's livelihood, the Committee nevertheless was also sensitive to its duty to protect the interests of the travelling public. The Committee considered it was appropriate to revoke the driver's licence with immediate effect as it deemed that the driver was not a fit and proper person to continue to hold the licence, for the following reasons:-

- The driver had repeatedly breached, and continued to breach, the Council's taxi licensing conditions, including over-charging customers, failing to report an accident and plying for business outside the permitted district.
- The Committee's previous sanction of a one month's suspension, with a warning that, should the driver appear before the Committee again, a harsher penalty would be imposed, did not appear to have been taken seriously by the driver.
- The Committee considered that a further suspension of the driver's licence would not sufficiently protect the interests of the travelling public or the reputation of the Council.

Resolved

That the driver's combined hackney carriage and private hire driver's licence be revoked with immediate effect. (ADLS)

The meeting commenced at 9.30 am and closed at 10.50 am.

Chairman

Date

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