



Walsall Council

REPORT OF THE INTERIM HEAD OF COMMUNITIES

AND PUBLIC PROTECTION

LICENSING AND SAFETY COMMITTEE

26 NOVEMBER 2014

WITHDRAWAL OF DISCREET PRIVATE HIRE VEHICLE IDENTIFICATION

1.0 Summary of report

- 1.1 Members will be aware that on the 15 October 2014 it was resolved that an exemption to display licensing livery on a private hire vehicle be rescinded following a licensing enforcement report. Following that decision, members requested that clarification be given as to why the initial recommendation contained within the report, did not make reference to possible suspension/revocation of either the actual private hire vehicle licence or of the drivers licence.

2.0 Recommendations

- 2.1 That Members note the contents of the report.

3.0 Background information

- 3.1 In July 2012 the committee agreed to a request made by a private hire vehicle proprietor for discreet private hire vehicle identification.
- 3.2 This was subsequently rescinded in October 2014 following a report submitted by the licensing enforcement team. The proprietor of the vehicle was also issued with a caution.
- 3.3 The recommendations given in the report at the time were:
- i) Take no further action.
 - ii) Issue a warning/caution
 - iii) Remove authorisation for discreet plating.
- 3.3 Following the decision given in 3.2. Members asked for clarification as to why these recommendations did not make reference to the possible suspension/revocation of either the private hire vehicle licence or of the drivers licence. This matter is addressed in 4.2. It should

however, be noted that the driver/vehicle proprietor had not previously appeared before any committee in relation to any licences held. It was in effect a first referral to committee.

4.0 Resource considerations.

4.1 **Financial:** None, licence fee has been paid.

4.2 **Legal:** The Local Government (Miscellaneous Provisions) Act 1976 permits a Council to set conditions in respect of the issue and grant of licences relating to private hire and hackney carriage drivers, vehicles and operators.

Section 48 of the Act states:

(1) Subject to the provisions of this part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied-

(a) that the vehicle is:

(i) suitable in type, size and design for use as a private hire vehicle;

(ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;

(iii) in a suitable mechanical condition;

(iv) safe;

(v) comfortable;

(b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Act of 1972, (Road Traffic Act) and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

Suspension and revocation of vehicle licences.

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefor under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:—

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- (c) any other reasonable cause.

It can be seen from the above, that a potential for the suspension or revocation of the private hire vehicle licence may have lay within (1)(c) above. However, the fact that the vehicle was not displaying licensing livery due to the granted exemption, did not mean that the vehicle itself was not safe, suitable or comfortable to remain a licensed vehicle. This is the statutory test for the licensing of such a vehicle and as such is related to the physical condition of the vehicle.

Had the vehicle licence been suspended or revoked, it is highly likely that on appeal, the appeal would have been allowed and potential costs awarded against the Council.

Licensing of drivers of private hire vehicles.

(1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

Suspension and revocation of drivers' licences.

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

- (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

The failure by the proprietor to comply with the requirements of the exemption would in effect be deemed as a breach of licence condition. Drivers who are referred to either of the taxi committees solely for the breach of a licence condition will as members know, invariably be issued with a caution and in some cases no further action is taken. It is probable that had the drivers licence been suspended or revoked, then on appeal, the decision would have been overturned. This was a first offence scenario and there were no further issues in relation to the drivers licence, which has been held since 2005.

It should also be noted that a private hire vehicle proprietor is not required by statute to also hold a private hire drivers licence and as a consequence of this, it follows that any potential enforcement action should relate to the terms of the vehicle licence itself.

As members will also know, they are able to take any action that they deem appropriate having listened to the individual merits of the case. However, that decision must not be Wednesbury unreasonable.

4.3 **Staffing:** Nothing arising from this report.

5.0 **Citizen impact.**

5.1 Nothing arising from this report

6.0 **Community Safety.**

6.1 Nothing arising from this report

7.0 **Environmental impact.**

7.1 Nothing arising from this report.

8.0 **Performance and risk management issues.**

8.1 Nothing arising from this report.

9.0 **Equality implications.**

9.1 Nothing arising from this report .

10.0 **Consultation.**

10.1 None.

11.0 **Contact Officer.**

11.1. Steve Knapper – Principal Licensing Officer – Ext: 3073

