



Walsall Council

REPORT OF THE INTERIM HEAD OF COMMUNITIES

AND PUBLIC PROTECTION

LICENSING AND SAFETY COMMITTEE

26 NOVEMBER 2014

TAXI LICENSING – EXCEPTIONAL CIRCUMSTANCE APPLICATIONS

1.0 Summary of report

1.1 Following a meeting of the Licensing and Safety Committee on the 15 October 2014 it was resolved that a report be produced for the next committee, detailing how many private hire/hackney carriage licences related to both vehicle and drivers had been granted following submission of an application to committee, under the exceptional circumstances criteria.

2.0 Recommendations

2.1 For members of the committee to note the information contained in the report.

3.0 Background information

3.1 Following a meeting of the Licensing and Safety Committee on the 15 October 2014 it was resolved that a report be produced for the next committee, detailing how many private hire/hackney carriage licences for both vehicles and drivers had been granted following submission of the application to the committee, under the exceptional circumstances criteria.

3.2 Between 1 January 2013 and 1 November 2014, 23 applications have been referred to this committee under the exceptional circumstances criteria.

- 3.3 Fourteen applications were for vehicle licences and nine for driver licences.
- 3.4 Following committee determination, twelve vehicle licences were issued along with seven driver licences . Four applications have been refused.
- 3.5 In respect of vehicle licence applications the following reasons were given by the applicant under the exceptional circumstances criteria.
- Licence revoked due to accident damage/insurance issues.
 - Purchased vehicle outside age policy limits.
 - Licence holder out of country, unable to renew.
 - Financial constraints.
 - Exceptional condition of vehicle.
- 3.6 In respect of driver licence applications the following reasons were given by the applicant under the exceptional circumstances criteria.
- Failure to renew in time.
 - Licence holder out of country.
- 3.7 Walsall Council by licensing condition has always allowed both licensed drivers and vehicle proprietors to renew their licences for up to 28 days following expiry.
- 3.8 It should be noted that under the Councils constitution, officers do not have delegated authority to determine applications where they do not conform to licensing policy and guidelines. Hence, they must be referred to the relevant committee for determination. This includes all exceptional circumstance requests.

4.0 Resource considerations

- 4.1 **Financial:** Licence fee is payable on grant.
- 4.2 **Legal:** The cost of any appeal to a magistrate's court by any person aggrieved by the decision of the council in respect of any conditions set by the authority as permitted under the legislation.

The Local Government (Miscellaneous Provisions) Act 1976 governs the issue and control of licences for private hire and hackney carriage vehicles, drivers and operators.

The conditions attached to vehicle and driver licences are standard.

The case of R.v Hyndburn Borough Council, ex parte Rauf and Kasim established that a Council can impose standard conditions as a matter of policy . The Council cannot however, fetter its discretion and refuse without such consideration as is appropriate, any application that does

not comply with its conditions. The local Authority can refuse an application in line with its policy so long as it does not “shut its ears” to any application, either considered individually or an application which amounted to an application to change the policy as a whole.

In order to give some consistency to the exercise of the discretion to depart from the standard conditions, on the 4th March 2009 the Licensing and Safety Committee resolved that approval be given to the amendment to the private hire and hackney carriage conditions of licence as follows:-

‘Exceptional circumstances (set aside or amend standard conditions in particular cases without full amendment of conditions)

On a case by case basis and only in exceptional circumstances the Committee may resolve to set aside or amend the private hire and hackney carriage standard conditions where it is appropriate to do so. In any case, it will be appropriate to set aside or amend the standard conditions only in exceptional circumstances where to impose the standard conditions will lead to a result which the Committee considers wholly unjust and wholly unfair in the circumstances of the particular case falling for consideration.

The setting aside or amendment of the condition will be specific to that case alone. The standard conditions will otherwise remain in place subject to the Committees discretion to amend them in the usual manner’.

The committee should consider if the application satisfies the exceptional circumstances criteria as given.

The Committee has a wide and unfettered discretion to depart from the standard conditions. However, a sensible balance has to be struck between preserving the aim of the conditions, ensuring consistency and fairness and on the other hand, departing from the conditions where it is right to do so.

The exceptional circumstances envisaged by the Committee on passing the above resolution would arise from unforeseen events over which the driver had no control and which had an adverse impact on the circumstances of the driver. For example a failure to re-licence a vehicle following a bereavement, which understandably caused the driver not to attend to his affairs as he usually would, or a driver unable to re-licence his vehicle because it had been damaged and he was unable to repair the vehicle in time to licence it due to no fault of his own.

5.0 Citizen impact

5.1 Each application is always determined on its merits.

6.0 Community Safety

6.1 Each application is always determined on its merits.

7.0 Environmental impact

7.1 None.

8.0 Performance and risk management issues

8.1 None.

9.0 Equality implications

9.1 None.

10.0 Consultation

10.1 None.

11.0 Contact Officer

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