

SCARBOROUGH BOROUGH COUNCIL

LICENSING SUB COMMITTEE

9 JULY 2019

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1976**

**TOWN POLICE CLAUSES ACT 1847 / SECTION 171 OF
PUBLIC HEALTH ACT 1875**

**REPORT OF THE ENVIRONMENT AND REGULATION
MANAGER – 19/148**

**REVIEW OF A DUAL DRIVER'S LICENCE –
ROBERT WEDGE**

1. PURPOSE OF REPORT

To inform the Licensing Sub-Committee of a referral by the Environment and Regulation Manager for the review of a Dual Driver's Licence.

To request that the Licensing Sub-Committee determine whether to exercise the powers available under section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and if such a determination is made to exercise those powers as considered appropriate.

2. LEGISLATIVE AND PROCEDURAL FRAMEWORK

2.1 Under section 37 of the Town Police Clauses Act 1847 (TPCA), allied with section 15 of the Transport Act 1985 and section 45 of the Local Government Miscellaneous Provisions Act 1976 (LMPA), the Council are provided with specific statutory powers to undertake and administer the licensing of Hackney Carriages and Private Hire Vehicles within the Borough of Scarborough.

2.2 In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and section 101 of the Local Government Act 1972, the Licensing Sub-Committee is authorised under the Council's Constitution to determine applications for the grant, transfer, renewal, revocation or suspension

of Hackney Carriage/Private Hire Licences relating to vehicles, drivers and operators.

- 2.3 The Licensing Sub Committee is referred to Appendix D of the Council's Taxi and Private Hire Policy which contains the principles used when considering applications.
- 2.4 Under section 17 of the Crime and Disorder Act 1998, the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.
- 2.5 Sections 51 and 59 of the LGMPA states that a local authority shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence.
- 2.6 The requirement to be a fit and proper person continues throughout the period during which the driver's licence is granted.
- 2.7 Section 61 of the LGMPA states that a local authority may, amongst other things, suspend or revoke the licence of a driver of a hackney carriage or 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 TPCA or of Part II of the LGMPA; or
 - (b) any other reasonable cause.

3. BACKGROUND

- 3.1 Members are referred to **Appendix A** of this report which sets out the reasons why this driver has been referred to the Licensing Sub-Committee.

4. OPTIONS

- 4.1 The Licensing Sub-Committee has the following options:
 - to take no action;
 - to issue a written warning;
 - to suspend the Licence;
 - to suspend the Licence with immediate effect;

- to revoke the Licence; or
- to revoke the Licence with immediate effect.

5. RECOMMENDATIONS AND DETERMINATION

5.1 It is recommended that Members consider and determine the review in accordance with the options listed above and having considered the Council's objectives which are:

- Safety, health and comfort of the public and drivers
- Prevention of crime and disorder, safeguarding of children and the vulnerable
- Vehicle safety, comfort and access
- Provision of high quality vehicles and services
- Promoting tourism and the Borough of Scarborough

5.2 Members must not predetermine the review or allow themselves to be prejudiced in favour of or against any of the options. In addition Members must exercise their decision making powers in accordance with the provisions of the Human Rights Act 1998, and the principles of natural justice.

5.3 When considering evidence, case law has determined that hearsay evidence is admissible in Licensing Sub Committee hearings. However, Members must have regard to the weight they attach to any such evidence. Regard must also be given to the source, the circumstances and the credibility of any such evidence.

5.4 Members are invited to determine this review following consideration of the evidence presented to them at the hearing. The procedure for this hearing is available on the Council's website.

5.5 Where the Licensing Sub-Committee decides to suspend or revoke a licence, they must give the driver notice of the grounds on which the licence has been suspended or revoked within 14 days.

5.6 A suspension or revocation takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver, or may take immediate effect if it appears to the Licensing Sub-Committee that the interests of public safety require this. Any notice must state as much and provide an explanation as to why this is so.

6 RIGHT OF APPEAL

6.1 The Driver has a right of appeal against the Licensing Sub-Committee's decision to the Magistrates' Court within 21 days from receipt of the determination.



Environment & Regulation Manager

Author: Gillian Mealor, Licensing Officer, Town Hall, Scarborough

Telephone No: 01723 232323

E-mail address: licensing.services@scarborough.gov.uk

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE NON-EXEMPT BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

List of Non-Exempt Background Papers

Department for Transport Taxi and Private Hire Licensing: Best Practice Guidance

Information Commissioner's Office Data Protection Technical Guidance Note – The application of schedule 12A of the Local Government Act 1972

SBC Taxi & Private Hire Policy, including Byelaws relating to Hackney Carriages

Institute of Licensing's Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades

Local Government (Miscellaneous Provisions) Act 1976

Town Police Clauses Act 1847

Background Papers Exempt from Disclosure under Part VA and Part 1 of Schedule 12A of the Local Government Act 1972

Appendix A - Supporting documents (personal data)