

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE - 9
SEPTEMBER 2021

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING -
<DATE>

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Robert Knowles (Chairman)
Cllr Martin D'Arcy

Cllr Ruth Reed

Cllr Jerome Davidson (Substitute)

Cllr Michael Goodridge
(Substitute)

Apologies

Cllr Peter Isherwood

Also Present

84. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda item 1.)

Cllr Peter Isherwood had given apologies and Cllr Jerome Davidson was attending in his absence.

An administrative error had meant Cllr Maxine Gale was listed on the agenda as a committee member but this was incorrect and Cllr Michael Goodridge should have been listed instead.

85. DECLARATIONS OF INTEREST (Agenda item 2.)

There were no declarations of interest for this meeting.

86. EXCLUSION OF PRESS AND PUBLIC (Agenda item 3.)

Pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 1 of the revised Part 1 of Schedule 12A to the Act in respect of the following item:

Information relating to any individual (paragraph 1)

87. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE FOLLOWING EXCESS
SPEED ALLEGATION (Agenda item 4.)

The Committee considered the report, and at the hearing viewed the recording of the incident provided by Surrey Police Officer and the driver.

The driver had been provided with a copy of the recording in advance of the hearing which he had collected from the Council offices, and which was shown to the Committee at the start of the hearing.

The Committee felt that the recording from the unmarked Police vehicle showed that he was travelling at speed in excess of the legal limit, and the Officer's evidence was accepted in that it could not be determined exactly what speed his vehicle was travelling at.

The Committee noted that the Officer present had 21 years of service in policing and when questioned, explained that speedometers are generally thought to have a 10 % degree of accuracy. The Officer also provided calculations for the equivalent speeds in miles per hour (from that in kilometres per hour which was shown on the recording).

The Committee noted the driver's explanation to the Officer and to the Committee was that he had no intention to travel at excess speed and was surprised that he had been stopped by the Officer. During the Committee hearing he reiterated his belief that he had been travelling at only 70 miles per hour and suggested that his car would not be able to travel at speeds alleged by the Officer, as there were mechanical issues, and he had been delayed in his attendance by vehicle problems. The driver also indicated that he determines the speed in which he is travelling by looking at road signs, and making use of the cruise control – and was adamant when questioned that he was only travelling at 70 miles per hour on the relevant date.

It was noted from the evidence of the Officer that he did not have a passenger in the vehicle at the time and when spoken to by the Officer, and within the police statement at the time of the incident he cooperated fully and appeared to express remorse for his actions, which clearly conflicted with the evidence which he provided to the Committee.

The Committee took account of the fact that the driver had no complaints recorded against him in so far as the Licensing service is aware, but was very concerned, as was the evidence of the Police Officer, that he did not recognise that he was travelling at significant speed, in the region of 100 miles per hour.

In addition, the Licensing Officer confirmed that he had a clean DVLA driving licence with no penalty points recorded, and this appeared to be an isolated incident.

The Committee felt that the Police Officer was a credible witness and took account of their extensive professional experience and this together with the recording from the Police vehicle made it very clear to the Committee that The driver was travelling at excess speed and estimated at in the region of 100 miles per hour in an area where 70 miles per hour was the legal limit, which was of great concern. In line with Waverley's statement of policy, the Committee noted that the driver had initially accepted responsibility but stated when questioned, and at the hearing that he did not believe that he was travelling outside the speed limit. As a result, the Committee

felt that he had not been taking his professional responsibility as a licensed driver seriously, and represented a significant risk to other members of the travelling public which was an aggravating feature of the incident.

The Committee felt that given the seriousness of the incident, it was appropriate to impose a three month suspension of his Waverley taxi licence as sanction, and determined that this should have immediate effect and was necessary in the interests of public safety.

This meant that he will not be able to drive a licensed vehicle for hire or reward until 9 December 2021. The Committee considered whether it may be possible to impose a lesser sanction, but in light of the clear evidence from the Police and his position, and the seriousness of the incident, the Committee felt that other sanctions would not be appropriate in the circumstances of the case and suspension was just and appropriate.

The Committee felt that suspension rather than revocation of his licence would be an appropriate sanction and necessary to protect the public – to ensure that a good safe and reliable service can be provided to the public by its licensed drivers. In addition, he was awarded 6 penalty points under the Waverley driving penalty point scheme, which will remain on his Waverley licence for a period of three years.

The driver immediately provided his Waverley taxi licence identification badge to the Licensing officer as soon as the decision was announced.

88. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE FOLLOWING ALLEGATION OF DRIVING IN A MANNER CONTRARY TO THE ROAD TRAFFIC ACT- USING A MOBILE PHONE WHILST DRIVING (Agenda item 5.)

This hearing was postponed until the 6th October as the driver was unaware of the hearing.

89. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE FOLLOWING SERVICE OF A DOMESTIC VIOLENCE PROTECTION NOTICE (DVPN) AND IMPOSITION OF A DOMESTIC VIOLENCE PROTECTION ORDER (DVPO) (Agenda item 6.)

The Committee considered the report, and at the hearing heard further from the driver. He explained that his wife had hoped to attend in support, but this had not been possible due to domestic events and were content to proceed.

In relation to the Domestic Violence Protection Notice and the connected domestic violence protection order (DVPO), the Licensing Manager had been able to make enquiries with the Police to indicate that no further action had been taken in relation to the initial matter which came to police attention.

The driver denied assaulting his wife as alleged and the Committee accepted that he had cooperated with the Police in relation to the process of the DVPN and attended Court and did not contest the DVPO order being made, and did not have legal advice at Court. The driver explained the difficult family circumstances including in relation to his wife's health and the impact of this upon his family and the relationship, and that it had been a difficult time as a result for a number of months.

During the Committee hearing, the driver outlined that he had been contacted by the Police and his wife whilst the DVPO was in place but that he had abided by the order and complied with this throughout, staying initially at a hotel and then later with friends until the order expired.

He also explained that he had recently acquired a British passport and was a dual passport holder, and this had been impacted by covid-19 and felt demonstrated his good character – and presented this to the Licensing Officer by way of evidence in support of his position.

The Committee considered carefully his record of complaints made and questioned him about this during the hearing and he was candid during the hearing indicating that he had disagreements with other drivers but had discussed and resolved those. The Committee felt that overall he was a credible and open witness and noted his explanations.

The Licensing Officer confirmed that he had a clean DVLA driving licence with no penalty points recorded, and although there was some concern about the number of complaints recorded against him, it was noted that he had not received any Waverley penalty points since his licence as originally granted in 2015. The driver also apologised to the Committee for taking up time and indicated that he took his role seriously and hoped not to appear before the Committee again in future.

The Committee noted the position and the challenging circumstances which he and his family had encountered and his explanation of events and felt sympathy for the situation but decided it was not appropriate to take any action in relation to the fact that you had received a DVPN and DVPO. In the circumstances the Committee was satisfied that he remain a 'fit and proper' or safe and suitable person to hold a Waverley taxi driver licence. The Committee took the opportunity to remind him to consider his position carefully in light of the background of complaints brought to their attention and his future conduct.

90. LEGAL ADVICE (Agenda item 7.)

The meeting commenced at 2.00 pm and concluded at 4.29 pm

Chairman