

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE - 6
OCTOBER 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)

Apologies

Cllr Michael Goodridge and Cllr Peter Isherwood

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

Apologies for absence were received from Cllrs Michael Goodridge and Peter Isherwood. Cllr Jerome Davidson attended as substitute.

92. DECLARATIONS OF INTEREST (Agenda item 2.)

There were no declarations of interest submitted for this meeting.

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

94. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE (DEFERRED FROM 9 SEPTEMBER 2021) (Agenda item 4.)

The Committee considered the report, and at the hearing heard further from the driver.

In relation to the use of a mobile telephone whilst driving, the Committee noted the background to the events and the drivers explanation and mitigation.

The driver accepted use of the mobile telephone (by texting) but felt that the vehicle would have been stationary, and due to the code of conduct in place would have been unable to pull over to deal with matters in front of the passengers or to speak in another language in their presence. It was noted that the driver had cooperated with Licensing Officers when spoken to in relation to the matter and again when they appeared before the Committee expressing remorse, and had not been given training about what to do in an emergency situation – and that you only otherwise had taken voicecalls on rare occasions by handsfree device when contacted by your operator.

They explained the impact that the Surrey County Council decision has had on their finances and family circumstances, and were advised this was not a matter which

the Committee was entitled to take into account in reaching their decision. During the committee hearing, the driver was clear in their understanding and acceptance that they had broken the law, and failed to comply with the standards expected of a licensed driver.

The Committee considered carefully the drivers record of complaints made and noted (as indicated by the Licensing Officer) that their DVLA record and Waverley penalty points records were clear, and that this appeared to be an isolated incident. Rather than a pattern of conduct.

The Committee recognised the particularly serious nature of the matter (in their view texting being especially dangerous and a significant distraction) and that this occurred whilst transporting children to school.

In line with Waverley's policy, reference was made to the fact that more serious driving offences such as careless driving will give doubts to an individual's suitability to be a licensed driving professional. The Committee did not consider that the driver had demonstrated the behaviours of a safe road user – and this could have impacted upon the passengers, and other road users.

The Committee expressed particular concern about the use of text rather than hands free voicecall, but understood and accepted the explanation and mitigating family circumstances and was grateful for the open and honest approach throughout.

The Committee felt that on balance they could be considered as a fit and proper person. However, confirmed that members of the public expect to have confidence in the safety and suitability of their driver and considered a lesser option but felt that in light of the serious nature of the incident, the driver should be awarded 12 Waverley penalty points and be subject to a period of suspension of three months, which is effective immediately on the grounds of public safety. The driver was asked to note that driving a licensed vehicle whilst unlicensed is an offence.

95. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE (Agenda item 5.)

The Committee considered the report and supporting documents, including the detailed letter and at the hearing heard further from the driver.

In relation to the matters of driving for hire and reward in an unlicensed vehicle without a valid licence, the Committee noted the background to events and the drivers explanation and personal circumstances including mitigation in full. In addition, reference was made to the position regarding an Operator Licence and that the driver had regularised this before the Committee meeting, by accepting advice from the Licensing Manager and submitting a relevant application.

The Committee heard how the impact that Covid-19 and the resulting restrictions has had on their business situation and the impact of this with regards to their health, namely that they remain under the care of a GP in relation to anxiety and depression. In the interview with Licensing Officers, it was noted that they had not cooperated fully but accepted responsibility and very shortly thereafter sent a lengthy letter expressing remorse and setting out the position. During the committee

hearing, the driver was very open in their understanding and acceptance that they had failed to comply with the standards expected of a licensed driver.

The Committee considered carefully their good record overall and noted (as indicated by the Licensing Officer) that their DVLA record and Waverley penalty points records were clear to date. It was accepted that the journeys appeared to be out of character and a misjudgement at a time when the driver was subject to significant financial and other issues. The Committee commended him for his honest and open approach, particularly when discussing sensitive health matters.

The Committee considered the case on its own merits, and in line with the policy noted that in exceptional circumstances it was possible to depart from the policy. However, the overriding objective was to ensure that drivers are fit and proper individuals and who do not represent a risk to members of the travelling public.

In line with Waverley's policy, reference was made to the fact that regulatory offences will give doubts to an individual's suitability to be a licensed driving professional. The Committee however recognised that they understood fully the possible impacts of their conduct and this could have impacted upon their passengers, and other road users.

The Committee expressed concern that he had disregarded the policy and procedures but accepted his apology, explanation and mitigating circumstances and was grateful for his open and honest approach throughout. The Committee noted the small number of journeys (four) mentioned and felt able to take account of exceptional circumstances including covid-19 and those set out in the letter of mitigation to depart from the guidance at page 59 paragraph 6.12 of the policy regarding 'licensing and other regulatory offences'.

The Committee felt that he could be considered as a 'fit and proper' person and agreed that it was appropriate and proportionate taking into account his cooperation and mitigation, to award 12 Waverley penalty points.

The meeting commenced at Time Not Specified and concluded at Time Not Specified

Chairman