

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE - 31  
JANUARY 2022

SUBMITTED TO THE LICENSING AND REGULATORY COMMITTEE MEETING – 28  
MARCH 2022

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

**Present**

Cllr Robert Knowles (Chairman)  
Cllr Martin D'Arcy

Cllr Michael Goodridge  
Cllr Ruth Reed

Cllr Jerome Davidson (Substitute)

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

There were no apologies for absence for this meeting

97. DECLARATIONS OF INTEREST (Agenda item 2.)

There were no declarations of interest submitted for this meeting.

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

99. REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE (Agenda item 4.)

Paul Hughes, Licensing Manager, outlined the report and the complaints made against the driver.

The Committee considered the report, and heard a statement from the driver.

The driver confirmed he had been provided with a copy of the report in advance of the hearing.

The Committee noted that there was a difference of opinion in relation to the circumstances of the most recent complaint, which had been formally reported to Surrey Police by the complainant and what the driver considered happened.

The driver did not consider he was travelling at speed in excess of the legal limit and indicated that he had travelled at not more than 40 miles per hour. In relation to the use of the mobile telephone, he indicated that he used the handsfree facility but accepted that he had stopped during the journey to make a call relating to a new booking and had asked the passenger to be quiet, as she was 'talking too much' (whilst he was on the 'phone) and suggested she 'stop crying'. The Committee noted that this took place at a relatively isolated location late at night (the A286 road between High Street and Brook).

The driver did appear to accept that he was driving a vehicle which was not licensed at the relevant time and explained that he had done so as there were no other drivers available at the time and the passenger was anxious to return home to her family, he explained he had gone to help and offer a service and this was at about 23.30 hours. The Committee felt that this was in itself a serious regulatory matter.

The driver accepted the records of the vehicle inspection and that the vehicle had failed on the tinting and brakes but did not provide any evidence or further explanation or information in relation to the vehicle brakes to the Committee.

However, in relation to driving an unlicensed vehicle, he explained that he had paid for the application to licence the vehicle in advance - and had lodged an application to be exempt from the tinting requirement. The Licensing Manager explained that this was on hold pending the determination of the matter before the Committee and confirmed that to him at the time of the incident. It was noted within the papers that the driver had received an email confirmation that he would not be able to use the vehicle as a licensed vehicle until a decision is made (in relation to possible exemption).

The Committee were advised that as an alternative it would have been open for him to alter the window tinting and pass an inspection so that the vehicle could be used to convey passengers as a licensed vehicle. The Committee was disappointed that he had elected to drive the vehicle to collect a passenger, knowing that this was not licensed, which was a clear breach of the expectations and requirements upon him.

The driver complained that Waverley is the only licensing authority in the country which has rules and requirements in relation to vehicle window tinting, which he disagreed with, the Committee noted that information about this regulatory requirement was in the public domain. In addition, this is set out clearly within policy documents which he claimed to be familiar with.

The Committee noted from the questioning and the drivers responses in relation to the recent incident that he felt that the passenger was in drink and could therefore not be relied upon as a witness. However, the Committee felt that there was an unwillingness to accept and or lack of understanding that she may have been in fear or intimidated, as a lone female when the vehicle stopped without clear justification in a rural location late at night. When this was pointed out, the driver demonstrated a clear lack of empathy, and was not prepared to consider that experiences may differ. It was noted that he did not ask for any fare or receive any monies at the end of the journey and the passenger left the vehicle running into the arms of her husband. The Committee felt that the driver gave contradictory accounts throughout, for example suggesting in interview that at the end of the journey the passenger's husband approached him with an axe whereas before the Committee he reported that the husband had a knife.

The Committee felt that the drivers behaviour and conduct as a licensed driver in relation to the incident was highly unsatisfactory. The Committee also felt that the fact that the incident had been reported to the licensing authority and the Surrey Police demonstrated the serious view which the complainant took of events and confirmed her credibility.

The Committee noted that that he had been a licensed driver originally since 2011 and had appeared before the Committee on a number of previous occasions. In 2013 he received a strict warning and in 2014 his licence had been revoked, a decision which was upheld in the Magistrates Court and the Crown Court on appeal. In 2016 he was granted a private hire licence, which was converted to a hackney carriage licence in 2017.

The Committee concluded, as there were a total of nine separate complaints received since 2017, including a formal warning letter previously regarding other individuals driving his licensed vehicle that he was no longer a fit and proper person to hold a Waverley driver licence, and noted in particular the reference within the policy document to the fact *'that work is carried out, usually alone, in the community at any hour of the day or night and in a one to one situation with unknown passengers, who have a right to rely on the Council's judgement as to the suitability of an applicant/driver based on the evidence available to it'*.

The Committee noted that whilst the driver expressed remorse at the hearing, he did not appear to accept the seriousness of the position and/or that his actions placed him in breach of regulatory requirements. During its deliberations, the Committee made reference to the policy and procedure document which suggested that in relation to Licensing and other Regulatory offences (at paragraph 6.12) *'offences under taxi and private hire and associated legislation [...] a licence will not be granted until a period of 5 years has passed since conviction'*.

The Committee felt that given the seriousness of the incident, it was appropriate to impose an immediate revocation of his Waverley driver licence and determined that this should have immediate effect and was necessary in the interests of public safety. This was particularly in light of the facts of the serious recent incident and meant that he would not be able to drive a licensed vehicle for hire or reward.

The Committee had considered whether it may be possible to impose a lesser sanction, but in light of the clear evidence from the complainant and his contrary position, and the seriousness of the incident, they felt that other sanctions would not be appropriate in the circumstances of the case and suspension was just and appropriate.

The Committee felt that 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. Given the history of complaints the Committee felt that it would not be possible to deal with the matter by way of lesser sanctions such as suspension, or penalty points.

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

*Post Meeting Note: on leaving the hearing the driver became aggressive in tone and advised the committee and officers that they were 'stupid' and 'Racist'.*

100. LEGAL ADVICE (Agenda item 5.)

The Committee considered all legal advice given relating to the items in the agenda.

**The meeting commenced at 10.00 am and concluded at 10.37 am**

**Chairman**