

Agenda

Meeting: **LICENSING COMMITTEE**
Date: **MONDAY 15 MAY 2017**
Time: **10.00AM**
Venue: **COMMITTEE ROOM**
To: **Councillors C Pearson (Chair), K Ellis (Vice Chair), D Buckle, Mrs J Chilvers, Mrs S Duckett, M Hobson, B Marshall, R Sweeting, J Thurlow and Mrs D White**

1. Apologies for absence

2. Minutes

To confirm as a correct record the minutes of the Licensing Committee held on 6 March 2017 (pages 1 to 6 attached).

3. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests. Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

4. Procedure

To confirm the procedure to be followed at the meeting (pages 7 to 8 attached).

5. Chair's Address to the Licensing Committee

6. Enforcement Update (L/16/23)

To receive the report of the Solicitor which updates the Committee on recent Enforcement action (pages 9 to 10 attached).

7. Application for a discreet Private Hire Vehicle Licence (L/16/24)

To receive the report of the Solicitor which asks the Committee to consider an application for a discreet Private Hire Vehicle Licence (pages 11 to 18 attached).

8. Private Session

That, in accordance with Section 100(A) (4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in paragraph 3 of Schedule 12(A) of the Act.

9. Application for a Private Hire Operators Licence (L/16/25)

To receive the report of the Solicitor, which asks the Committee to determine an application for a Private Hire Operators Licence (pages 19 to 21 attached).

**Gillian Marshall
Solicitor to the Council**

Enquiries relating to this agenda, please contact Daniel Maguire on:
Tel: 01757 705101 Email: dmaguire@selby.gov.uk.

Recording at Council Meetings

Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to: (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Manager on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.

Minutes

Licensing Committee

Venue:	Committee Room, Civic Centre, Selby.
Date:	Monday 6 March 2017
Time:	10.00am
Present:	Councillors C Pearson (Chair), D Buckle, Mrs J Chilvers, S Duckett, K Ellis, M Hobson, B Marshall, R Sweeting, and Mrs D White.
Apologies:	None.
Officers present:	Gillian Marshall, Solicitor to the Council; Alison Beaumont, Enforcement Officer (for minute numbers 55 to 60); Barbara Patterson, Business Administration Assistant; and Daniel Maguire, Democratic Services Officer
Public:	0
Press:	0

55. MINUTES

The Committee considered the minutes of the Licensing Committee meeting held on 9 January 2017. The minutes were approved as a correct record and signed by the Chair.

RESOLVED:

To approve the minutes of the Licensing Committee meeting held on 9 January 2017.

56. DISCLOSURES OF INTEREST

Councillors Mrs J Chilvers and B Marshall both declared that the applicant being considered at agenda item 9 (minute number 60) was known to them, and although not a disclosable interest both councillors advised that they

would not participate and would leave the meeting during discussion of the application.

57. PROCEDURE

The Committee noted the Licensing Committee procedure.

58. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Chair advised the Committee that he would consider agenda items 8 and 9 before agenda item 6 to avoid the applicant having to wait.

59. PRIVATE SESSION

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, in view of the nature of the business to be transacted the meeting be not open to the press and public during discussion of the following items as there will be disclosure of exempt information as described in paragraph 3 of Schedule 12(A) of the Act.

60. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE (REPORT L/16/22)

The Enforcement Officer presented the report which asked the Committee to determine an application for a Hackney Carriage Driver's Licence. The application was brought before the Committee due to a Disclosure and Barring Service (DBS) check highlighting a number of previous convictions.

The applicant was present and was able to answer questions from the Committee.

The applicant and the Enforcement Officer left the meeting whilst the Committee considered the application. Councillors Mrs J Chilvers and B Marshall also left the meeting in connection with their earlier disclosure of interest.

The Committee considered that the convictions were of concern but that the applicant had been free from conviction for ten years. The Committee noted that the Council's Licensing Policy required applicants to be free from conviction for at least 3 to 5 years. During questioning the Committee established that the applicant had previously been employed as a coach driver which would have required him to be in regular contact with the public including for prolonged periods of time. The Committee considered that the evidence presented demonstrated that the applicant was a 'fit and proper

person' to be a licensed Hackney Carriage driver, but that a strongly-worded letter should be issued to advise the applicant on the Council's expectations and standards.

A proposal to grant the application, subject to a strongly-worded letter being issued to advise the applicant on their future conduct, was moved and seconded.

An amendment to refuse the application was proposed but was not seconded.

RESOLVED:

To grant the application for a Hackney Carriage Driver's Licence subject to a strongly-worded letter being issued to advise the applicant on their future conduct.

Reason for decision:

The Committee, having considered the Council's Taxi Licensing Policy (and in particular the Relevance of Convictions at appendix C), and the evidence available to it, determined that the applicant was a 'fit and proper person' to be a licenced Hackney Carriage driver.

Councillors Mrs J Chilvers and B Marshall returned to the meeting.

The applicant re-entered the meeting and the Solicitor to the Council confirmed the Committee's decision. It was confirmed that the strongly-worded letter could be taken into account if the applicant appeared before the Committee in the future.

61. PUBLIC SESSION

RESOLVED:

To return to public session.

Reasons for decision:

The nature of the business to be considered was no longer considered to be exempt as described in Schedule 12A of the Local Government Act 1972 (as amended).

62. GAMBLING POLICY REFRESH (REPORT L/16/20)

The Assistant Policy Officer presented the report, which asked the Committee to consider the draft Gambling Policy and to provide comments or recommendations as part of the consultation process. It was confirmed that the Council was required to review the policy every 3 years.

The Assistant Policy Officer confirmed that the draft policy had been updated to reflect changes to the Gambling Commission's latest guidance and the new

Licence Conditions and Code of Practice. The Committee was also informed that the draft policy included new guidance on the Registration of Small Society Lotteries.

The Committee was advised that public consultation had started on 20 January 2017 and would continue until 14 March 2017, and would include statutory consultees as well as non-statutory consultees such as parish councils, district councillors and the general public. It was anticipated that the final policy would be presented to the Executive on 6 April 2017 and Full Council on 25 April 2017.

The Committee was able to ask questions of the Assistant Policy Officer, but did not make any additional recommendations.

RESOLVED:

To note the report.

Reason for decision:

The Committee was asked to review and comment on the draft Gambling Policy as it will be required to refer to the Gambling Policy when determining licensing matters.

63. CHANGES TO THE LEGISLATION AFFECTING DRIVERS AND THE DUTY TO ASSIST WHEELCHAIR USERS (REPORT L/16/21)

The Solicitor to the Council presented the report, which updated the Committee on proposals to bring into force legislation (section 165 of the Equality Act 2010) which would make it illegal for licensed taxi drivers of designated wheelchair-accessible vehicles (WAVs) to discriminate against wheelchair users unless the driver had been granted an exemption by the Licensing Authority.

The Committee was advised that the legislation set out specific requirements for taxi and private hire drivers in relation to wheelchair-users when driving a WAV, and that those drivers who failed to comply with the requirements would be committing a criminal offence. The Committee was further advised that the legislation allowed for drivers to apply to the Licensing Authority for an exemption on medical grounds.

The Solicitor to the Council advised that the Council would need to introduce a defined process for determining medical exemptions. It was confirmed that the Licensing Committee would have a key role in developing this process, and that it could be part of a wider piece of work to review other policies and procedures relating to taxi and private hire licensing. The Committee suggested that a workshop should be arranged so that all Committee members could provide input.

RESOLVED:

- (i) To note the report and the steps required to implement the new arrangements; and**
- (ii) To ask the Solicitor to the Council to arrange a workshop for Licensing Committee members to consider the new arrangements as part of a wider review of licensing arrangements at the council.**

Reason for decision:

The Council is required to ensure that policies and procedures are effective, up-to-date and compliant with legislation and statutory guidance. The Committee will be required to determine relevant matters in accordance with the policies and legislation.

The meeting closed at 11.23am.

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LICENSING COMMITTEE

PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Members of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Members of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had an opportunity to say anything that they wish to say and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, press and public, will then be asked to withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Legal Advisor will inform the applicant in writing of the decision of the Licensing Committee and any appeal rights.

Public Session

Report Reference Number: L/16/23

Agenda Item No: 6

To: Licensing Committee
Date: 15 May 2017
Author: Rebecca Ware, Solicitor
Lead Officer: Gillian Marshall, Solicitor to the Council

Summary

To provide an update to the Licensing Committee of recent enforcement action taken in relation to the licensing of Hackney and Private Hire Taxis.

Recommendations

That that Committee notes the contents of the Report.

1. Introduction and Background

The purpose of this Report is to update the Licensing Committee on actions taken by Officers in accordance with their delegated functions in relation to the licensing of Hackney and Private Hire Taxis.

2. The Report

Mr Darren Welsh (Private Hire Driver for 'Tower Hire')

- 2.1 The Committee may recall that Mr Darren Welsh was discovered to be driving without a private hire driver's licence for 'Tower Hire'.
- 2.2 Mr Welsh was prosecuted for the offence of driving a private hire vehicle without a private hire driver's licence pursuant to Section 46 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.3 Mr Welsh appeared before York Magistrates Court and pleaded guilty to the offence.
- 2.4 In fining Mr Welsh, the Magistrates took account of his financial circumstances. Mr Welsh received a fine of £100.00, a surcharge of £30.00 and was ordered to pay £412.50 towards the Council for the costs of the prosecution.
- 2.5 Mr Welsh is now appropriately licensed to drive private hire vehicles.

Andras Gruber (Operator for 21Taxis)

- 2.6 In December 2016, the Council received a complaint from a member of the public alleging that on 20 December 2016 '21 Taxis' failed to fulfil a booking.
- 2.7 The complainant in question had booked a private hire vehicle to take her to Selby train station in time for a train to Reading. The complainant has mobility difficulties and uses a mobility scooter. The complainant was travelling to visit her Grandson.
- 2.8 The complainant alleged that she contacted '21 Taxis' when they failed to attend and that they informed her that the taxi was "on the way". The taxi did not arrive in time and the complainant had to travel in her mobility scooter from her home address to the train station to ensure that she caught her train.
- 2.9 The complainant was distressed by the incident and disappointed by the service she received from '21 Taxis'.
- 2.10 Mr Gruber was invited in to the Council offices to discuss the complaint.
- 2.11 Alison Beaumont (Enforcement Officer) and Rebecca Ware (Solicitor) met with Mr Gruber on 20 February 2017 to discuss the complaint.
- 2.12 Mr Gruber admitted that 21 Taxis had failed to fulfil the booking, indicating that the vehicle which had been dispatched had broken down.
- 2.13 Mr Gruber apologised profusely for the inconvenience this caused the complainant.
- 2.14 Given the circumstances of this incident, the decision was taken to issue Mr Gruber with a written warning. No further action was taken in respect of the incident.
- 2.15 The complainant was satisfied with the action taken by the Council.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

There are no legal implications.

3.2 Financial Issues

There are no financial implications.

4. Conclusion

That the Committee notes the content of the Report.

Contact Officer: Rebecca Ware (rware@selby.gcsx.gov.uk)



Public Session

Report Reference Number: L/16/24

Agenda Item No: 7

To: Licensing Committee
Date: 15 May 2017
Author: Rebecca Ware, Solicitor
Lead Officer: Gillian Marshall, Solicitor to the Council

Purpose of the Report and Summary:

Mark Wright has applied to the Council for exemption from the requirements:-

1. To display a vehicle plate;
2. That the driver (of said vehicle to which the exemption relates) should "wear his badge in such position and manner as to be plainly and distinctly visible".

The Application relates to two vehicles, both of which have existing Private Hire Vehicle Licences.

If the Committee grant exemption, the vehicles will be 'discreet' in nature.

Recommendations:

That Committee consider this matter having listened to the Applicant and determine whether the Applicant should be granted permission for the two vehicles to be discretely identifiable.

1. Background

There are a number of companies who provide what they refer to as 'Executive Hire Cars'.

Although these vehicles are licensed Private Hire Vehicles, they are often used by companies and firms to transport visitors, senior staff members etc and are more akin to a chauffeur driven vehicle than a private hire vehicle.

The Applicant, Mark Wright is an existing, licensed Private Hire Operator.

2. The Report

- 2.1 On Thursday 13th April 2017, Mark Wright applied to Selby District Council (see Appendix A) to change the Private Hire Vehicle Licences in respect of a Jaguar XF and a VW Passat from vehicle bearing plates to one where the licence is discreet in manner.
- 2.2 Mark Wright was granted a Private Hire Driver's Licence on 17th July 2013 and received a Private Hire Operator's Licence on 17th July 2013.
- 2.3 A Private Hire Vehicle Licence for a Jaguar XF operated by Mr Mark Wright was issued on 16th March 2017.
- 2.4 The Applicant's business has been in operation for 4 years. The Applicant states that his business has since developed to provide a service to customers who seek a more executive style of transportation. The letter outlines their reasons for making such an Application and is supported by letters from 3 customers (see Appendices B, C and D).
- 2.5 Other Authorities have issued licences in the form of a disc which is discreet in nature. Selby District Council has granted such licences on twenty three previous occasions, and all licences are currently in operation.
- 2.6 A copy of the disc (see Appendix E), which will be provided on a red background when issued thereby replicated the colour of the Private Hire Vehicle plate, is available for scrutiny.

3. Legal/Financial Controls and other Policy matters

3.1 Legal /Policy Issues

The Council first granted a Private Hire vehicle licence in terms of discreet identification on 16 August 2004 and has done so on twenty three occasions since.

Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 provides:-

"No person shall use or permit to be used in a controlled district as a private hire vehicle a vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the discreet council shall prescribe by condition attached to the grant of the licence".

Section 54(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976 provides:-

“A driver shall at all times when acting in accordance with the driver’s licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible”.

Under Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976, the Local Authority can:-

“by notice in writing given to the proprietor of the vehicle, provide that Sections 48(6)(a) and 54(2)(a) of the Local Government (Miscellaneous Provisions) Act 1976 shall not apply to the vehicle on any occasion specified in the notice”.

3.2 Financial Issues

The Application has no significant financial implications.

4. Options and Risk Assessment

The options open to the Committee are:-

- a) Grant the exemption.
- b) Grant the exemption with conditions, i.e. restricting the vehicle to “executive use”.
- c) Refuse to grant the exemption.

5. Conclusions


A copy of the relevant legislation is available from Legal Services.

Contact Officer: Licensing Team: licensing@selby.gov.uk

Appendices:

- A. Letter of application from Mark and Nicki Wright
- B. Letter of support from Andrew Scott
- C. Letter of support from Alison Hackwell
- D. Letter of support from Paul Stanley
- E. Copy of disc

*Diamond Travel
44 Oxen Lane
Cliffe
SELBY YO8 6NS*



13 April 2017

Taxi Licencing
Selby Council

BUSINESS SUPPORT

21 APR 2017

RECEIVED

Dear Sir/Madam

Re: Discrete Licences

I would like to request that the following two private hire vehicles are issued with discreet licences:

LO61 MXP	PHV081	Jaguar XF
VK11 EWX	PHV045	VW Passat CC GT

We currently carry a number of business/corporate clients who prefer to be transported in discreet vehicles. We also have a number of brides who would like to use our vehicles for weddings but would obviously prefer a discreet vehicle. I have attached three references as requested.

We have previously held a discreet licence and are prepared to speak to a committee if required.

Please let me know if you need any further information.

Yours faithfully

Mark Wright
Diamond Travel

Nicki Wright
Diamond Travel

Andrew Scott
Burn Hall
Burn Hall Crescent
Burn
YO8 8LT



Dear Sir / Madam,

Please accept this letter as a reference for Mark and Nicki Wright of Diamond Travel for a 'discrete' taxi plate.

I am a regular consumer of Diamond Travel services; I use them on average 5/6 times per week. My use of Diamond Travel is predominantly to help me with 'Access to Work' due to disability. Diamond Travel always meet my needs.

I would however prefer Diamond Travel to use 'discrete' plates, this is for two reasons;

- When travelling for business I would prefer an executive car not shown as a taxi; and,
- As a disabled person I would prefer that my travel to and from work was not openly known to be by taxi, this avoids me being seen / tret as 'different'.

If you require any further information please do not hesitate in contacting me on the details above.

Yours Sincerely,

Andrew Scott

APPENDIX C

S [REDACTED]@diamondtravel.com

Dear Sir / Madam,

As a regular business user of Diamond Travel's executive car services for business travel I would like to request that their cars I use be on a discrete plate.

kind regards

Yours Faithfully

Alison Hackwell
Director of Performance & Talent Management

Coaching North

[REDACTED]
[REDACTED] 9



Executive Office
11000 Rockledge Drive, Suite 1000
www.gnsworldwide.com

APPENDIX D

For the Attention Of,
Selby Licensing Committee

1 April 2017

Dear Committee,
Re: Discrete License Application

This is to confirm that Mr Paul Stanley, Chief Executive Office at Global Navigation Solutions is a regular customer of Diamond Travel. For business purposes it would be highly preferable if Mr Stanley's cars that he is travelling in were discrete with no plates visible on the exterior.

Should you have any concerns about the above please do not hesitate to contact me.

Yours sincerely,

[REDACTED]


SELBY DISTRICT COUNCIL
Licensed Private Hire Vehicle

PHV

Vehicle Registration No

Make Colour

Licence Expires

All enquiries in respect of this licence
should be addressed to the Licensing
Department at Selby District Council,
Doncaster Road,
Selby YO8 9FT

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