



Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Tuesday, 1 October 2024 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

Licensing Committee members present:

Councillors Birch, Leigh, Minto, Moliner, Nicholls, Rushforth, Swift, B Stephenson and C Stephenson

Absent- apologies received:

Councillor(s) Ellison, Baxter and Smith

Officers present:

Emma Cross, Assistant Democratic Services Officer
George Ratcliffe, Democratic Services Officer
Patrick Cantley, Senior Licensing Officer
Wayne Clarke, Senior Compliance / Licensing Enforcement Officer
Lisa Dodd, Legal Services Manager
Gary Scott, Transport & Maintenance Team Manager Copse Road Depot
Matthew Coward Bains, Mechanic/Fitter

No members of the public or press attended the meeting.

25 Declarations of Interest

None.

26 Exclusion of the public and press

In accordance with paragraph 11 of the Access to Information Rules in Part 4 of the Council's Constitution, the Chief Executive had determined that the report submitted under agenda item 4, 5, and 6 of the agenda were "Not for Publication", as defined in schedule 12 A of the Local Government Act 1972.

The Committee passed the following resolution "That the public and press be excluded from the meeting whilst agenda items 4, 5 and 6 were being considered, as they referred to exempt information as defined in category 1 (information relating to any individual) Variation Order 2006 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information".

Using a vehicle as a Hackney Carriage without the appropriate licence in place or valid MOT

The Chair, Councillor Birch, introduced the committee and the officers attending the meeting. The applicant introduced himself, and the secretary of his employer, who was also in attendance.

The Chair ensured that the applicant had received all necessary information and paperwork for the hearing and checked that the applicant knew he could have been represented at the hearing.

The Senior Licensing Officer introduced the report. He explained that the council had received a complaint about the vehicle that the applicant had been driving. He clarified that the vehicle was seen plying for hire without a current MOT or valid vehicle licence in place. He provided that on the two dates contained in the report the vehicle had completed a total of 27 jobs. 18 of these occasions occurred whilst it was also unlicensed. He stated that during the same period another vehicle was driven by the applicant. That vehicle had been required to undergo an additional MOT, where it failed as it was in a dangerous state of condition.

The applicant addressed the committee. He clarified that he rented the vehicle off his employer and that he didn't deal with the MOT as it's included as part of the paid service to his employer. He explained that when at the garage, he was told there was a car currently being worked on, but that the following day, he was to use that car for work while his was being fixed. He mentioned that he had raised concerns with his employer about the system not being updated to reflect his change in vehicle, but that his concerns had been dismissed. He explained that if updated the system would have flagged the lack of MOT. He stated that if he had known it didn't have an MOT, he would not have driven the car. He explained that once he learned of the lack of MOT, he returned to the garage and switched cars to the second vehicle. He addressed that due to stress he neglected to check the vehicle before he left the garage.

Councillors raised the following questions/concerns over:

- If the applicant would have normally inspected the car before he proceeded to work.
- If the co-owner of the company knew the vehicle was affected and still asked the applicant to drive it.
- If the applicant had sight of the internal disc that lists the license expiry date.
- How aware the applicant was that the vehicle was in a dangerous condition.
- What garage the driver took the vehicle to.
- How obvious it was that the wheel nuts were missing.
- If it was common practice amongst the other drivers to look at the PDA device (Personal Digital Assistant) rather than the internal disc to tell if the vehicle is licensed.
- If the applicant had thought of leaving his employer.
- If the applicant owned or rented the car.

- If the vehicle change had been updated on the computer, would the applicant have known straight away that there wasn't a valid MOT.

The Transport & Maintenance Team Manager and the Mechanic/Fitter from the Copse Road Depot responded to questions from councillors regarding:

- What the faults were with the vehicle and the severity of those faults.
- If it was surprising the configuration of the missing wheel nuts.

The Senior Licensing Officer responded to questions from Councillor Rushforth regarding if it was the driver's obligation to have an MOT, and if it was the driver's responsibility to ensure that a vehicle was not driven without an MOT or in a dangerous condition.

The company's secretary commented that multiple reminders were given regarding the MOT.

The Senior Licensing Officer explained in the report which jobs were undertaken in which vehicles. He added that the company's system hadn't been updated to reflect the change in vehicle.

The Senior Licensing Officer responded to the Chair's question regarding if the applicant's employers always used the same garage.

In response to a question from Councillor Rushforth, the Senior Licensing Officer explained that the decision under this item was regarding the applicant's dual driving badge, and that the other vehicles mentioned would be considered separately.

The applicant was invited to summarise his case.

The applicant, the secretary of his employer, the officers from the Copse Road Depot, and the licensing team left the room to allow the committee to discuss their recommendation in private session.

In reaching its decision, the committee had regard to:

1. The Council's own Hackney Carriage and Private Hire Policy
2. The Local Government (Miscellaneous Provisions) Act 1976

The Licensing Committee then reconvened, and the Chair announced the decision.

Decision

The Licensing Committee suspended Mr Townley's hackney carriage licence, WDL0654 under section 61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976 for a period of three months.

Mr Townley had previously attended before the Committee on the 30 January 2020 for sustaining a conviction or caution whilst licenced. He had on that occasion continued to ply for hire within the Borough of Wyre when he did not hold a valid dual drivers licence.

The Licensing Committee had an overriding duty to protect the public when considering the conduct of licensed drivers.

28

Application to renew Hackney Carriage Vehicle Licence after being used whilst unlicensed and without a valid MOT certificate

The Chair introduced the committee and the officers attending the meeting. The applicant introduced himself, and so did the secretary of his organisation, who was also in attendance.

The Chair ensured that the applicant had received all necessary information and paperwork for the hearing and checked that the applicant knew he could have been represented at the hearing.

The Senior Licensing Officer introduced the report. He explained the vehicle owned by the applicant had been reported undertaking licensed work without a current MOT certificate on two dates included in the report, and without a current Hackney Carriage license on one of those dates. He provided that on the two dates contained in the report, the vehicle had completed a total of 27 jobs. He stated the applicant's history with the council and the MOT history of the vehicle.

The Senior Licensing Officer responded to a clarification question from Councillor B Stephenson regarding a complaint listed in the report concerning the applicant's conduct.

The applicant addressed the committee. He explained the timeline of the incident, and that he was out of the area when the incident occurred. He stated that he didn't know the driver had taken the car without valid MOT, and that when he was contacted by the driver, he informed him not to continue driving the vehicle. He added that his company had a computer system, that prevented a driver logging in if there wasn't a valid MOT on the vehicle.

Councillor Rushforth asked for clarification regarding what vehicle was being considered. The Senior Licensing Officer provided clarification on the registration of the vehicle, and the Transport & Maintenance Team Manager confirmed the dates of the MOT provided by the applicant as requested by Councillor Minto.

The applicant responded to several questions from councillors regarding:

- If the applicant had changed garages due to the issues and if the work had been done by different garages on different occasions.
- If the applicant advised his driver not to drive the car.
- If he was aware the car didn't have an MOT.

Councillor Birch asked the Transport & Maintenance Team Manager to explain the condition of the car when it was presented for MOT. Discussions were had regarding the MOT history of the vehicle. The Transport & Maintenance Team Manager and the Senior Licensing Officer responded to questions.

The Senior Licensing Officer responded to Councillor Rushforth's question for clarification regarding if it was the applicant's driving license or the vehicle license being considered.

The applicant summarised his case. He explained that he had a spare car, and that he would book the MOT in advance next time. He mentioned that he planned to upgrade his fleet.

The applicant, the secretary of his company, the officers from the Copse Road Depot, and the licensing team left the room to allow the committee to discuss their recommendation in private session.

In reaching its decision, the committee had regard to:

1. The Council's own Hackney Carriage and Private Hire Policy
2. The Local Government (Miscellaneous Provisions) Act 1976

The Licensing Committee then reconvened, and the Chair announced the decision.

Decision

The Licensing Committee granted the application to licence the vehicle for use as a hackney carriage.

29 Proprietor failing to properly maintain licensed Hackney Carriage Vehicle

The applicant remained in the room following the decision of the last application.

The Senior Licensing Officer introduced the report. He explained that when presented for additional compliance inspection and vehicle retesting, the vehicle was found to be in a dangerous condition. He established that the vehicle was used for 3 jobs before being taken for that MOT test, therefore it was driven while in a dangerous condition. He stated the MOT history of the vehicle. He clarified that the vehicle had failed the MOT test annually since the applicant became the sole owner, and therefore the vehicle was not being maintained or kept in good order.

Councillor Nicholls asked for clarification regarding if they had a private hire operator's license and if all business was conducted through the hackney carriage license held. The Senior Licensing Officer confirmed that they were hackney carriage proprietors.

The Transport & Maintenance Team Manager responded to questions from Councillors Swift and Rushforth regarding the tyre string on the vehicle when submitted for MOT testing.

The applicant addressed the committee. He informed that he'd told his drivers that if there was a problem with their vehicle to not phone him, and to take the vehicle to the garage. He stated that he wouldn't know what the issues with

the car were if the garage didn't inform him, and that if he had known he would have had them fixed. He expressed that it was the driver's responsibility to check the vehicle.

The Senior Licensing Officer asked the applicant a number of questions for member's benefit. These are provided below:

- If the applicant was the sole company owner.
- If the vehicle in question was licensed in the name of his company.
- If it is fair to say that he had absolute responsibility for the maintenance, the safety, and road worthiness of vehicles licensed in his company's name.
- Whether he submitted the application, and if it was him that had the responsibility to submit the vehicle for testing at the council's garage.
- If he was aware that allowing a vehicle to be used on a road without a MOT was an offense that he was responsible for.
- Had he ever appealed the conditions on previous licenses if he was unhappy with them.

The applicant responded to questions from councillors regarding:

- If the applicant advised against the driver driving the car.
- Why if a driver had a problem with a car, didn't they report back to him.
- If the applicant delegated when he was out of the area.

In response to Councillor Moliner's question, the secretary explained that she was made aware about the vehicle not having the MOT but was not available the following days. She explained that normally she was around all the time for drivers to contact her. She stated she was not responsible for vehicles though.

The applicant summarised his case.

The applicant, the secretary, the officers from the Copse Road Depot, and the licensing team left the room to allow the committee to discuss their recommendation in private session.

In reaching its decision, the committee had regard to:

1. The Council's own Hackney Carriage and Private Hire Policy
2. The Local Government (Miscellaneous Provisions) Act 1976

The Licensing Committee then reconvened, and the Chair announced the decision.

Decision

The Licensing Committee resolved to take no further action in respect of this matter. The condition of the car is to be reviewed in six months time and a further MOT test undertaken.

The meeting started at 6.00 pm and finished at 9.28 pm.

Date of Publication: 17 October 2024

This page is intentionally left blank