

Minutes

Licensing Committee
Friday, 18 October 2024



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Pam Bosworth (Chairman)
Councillor Elvis Stooke (Vice-Chairman)
Councillor Harrish Bisnauthsing
Councillor Helen Crawford
Councillor Steven Cunnington
Councillor Patsy Ellis
Councillor Paul Fellows
Councillor Jane Kingman
Councillor Robert Leadenham

Officers

Chris Clarke, Licensing Officer
Mandy Braithwaite, Legal Advisor
Heather Green, Licensing Manager
Lucy Bonshor, Democratic Officer

29. Apologies for absence

Apologies for absence were received from Councillor Philip Knowles and Councillor Nikki Manterfield.

30. Disclosure of interests

Councillor Robert Leadenham declared an interest in respect of the second part of agenda item 5 as he was acquainted with the driver and left the meeting during the debate and decision making.

31. Minutes of the meeting held on 20 September 2024

The minutes of the meeting held on 20 September were proposed, seconded and **AGREED.**

32. Exclusion of Press and Public

It was proposed, seconded and **AGREED** to exclude the press and public in accordance with Section 100(A) of the Local Government Act 1972 (as amended) during consideration of the following items of business because of the likelihood that otherwise exempt information, as described in paragraphs 1 and 2 of the Act (as amended) would be disclosed them.

33. Local Government (Miscellaneous Provisions) Act 1976

ENV890 (a)

Decision

To revoke the dual driver's licence on the grounds that the applicant is not a fit and proper person to hold such a licence under section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976.

The Committee were asked if they were content to proceed to determine the issue before them as the driver was not in attendance. The Licensing Officer confirmed that all relevant notifications had been given to the driver, however, the driver had confirmed that he would not be attending Committee. The Committee **AGREED** to proceed with the issue in the absence of the driver.

The Licensing Officer presented exempt report EMV890(a) which concerned whether a dual driver remained a fit and proper person to hold a dual hackney carriage and private hire drivers' licence with South Kesteven District Council. The Licensing Officer stated that the driver had failed to renew a hackney carriage vehicle licence and had allowed the vehicle to be used unlicensed. The Licensing Officer also referred to previous incidents that had resulted in South Kesteven Penalty Points being issued to the driver and although these were spent, they could be taken into consideration by the Committee.

Members questioned the Licensing Officer about the renewal and the Licensing Officer confirmed that the vehicle was now licensed. The driver had been contacted in July 2024 and reminded that the licence was due for renewal. Other comments were made in respect of whether points had been issued previously due to licenses not being renewed to which the Licensing Officer responded. It was noted by the Committee that by using the vehicle whilst unlicensed this would void the insurance if the vehicle had been involved in an accident which was of great concern to the Committee.

The Licensing Officer then gave their closing statement and reminded the Committee that each application had to be determined on its own merits. Members should have regard to all relevant policies including the Council's Hackney Carriage and Private Hire Policy, the Department of Transport Standards and all other relevant policies. The driver had been brought before the

Committee as failure to licence a vehicle could result in the awarding of 12 South Kesteven Penalty Points which meant referral to the Licensing Committee.

The options available to the Committee were:

- To suspend the driver for a defined period of time
- Revoke the dual driver's licence on the grounds that the applicant is not a fit and proper person to hold such a licence under section 61 (1) (b) of the Local government (Miscellaneous Provisions) Act 1976
- Issue a warning
- Take no action

(10:20 the Licensing Officers left the meeting)

Members discussed the issue before them, taking into account the report, appendices, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy and the Department of Transport Standards. Some Members felt that the failure to licence the vehicle had been an oversight and that perhaps further points should be issued. It was stated that points were issued by the Licensing Officers and the number of points for this offence would mean that they would be referred back to the Licensing Committee. Other Members were very concerned because the vehicle had been used unlicensed, this would mean that the insurance was null and void if the vehicle had been involved in an accident which had potential serious consequences. Members discussed suspending the licence and the Legal Advisor stated that the suspension timeframe was between 7 or 31 days and in this case, suspension would be used as a deterrent rather than as a punishment and reference was made to recent case law. Giving a warning was also discussed but on balance, Members felt that a stronger deterrent was required as the driver was not a "new" holder of a licence and therefore they should be aware of their responsibilities. Further discussion on suspending the licence followed with Members unhappy that the driver had not felt the need to attend the Committee to make their case. Due to the fact that the vehicle had been used whilst unlicensed which could have had serious consequences had the vehicle been involved in an accident, and that the driver was not a "new" driver, they had held a licence for a considerable amount of time and therefore they should be aware of their responsibilities, it was proposed, seconded and **AGREED** to revoke the driver's dual driving licence.

(10:50 the Licensing Officers returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had taken into consideration the report, appendices, the representation made, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy, the Councillor Handbook for Taxi and Private Hire Standards and the Department of Transport Statutory Taxi and Private Hire Standards.

The Committee had determined it was reasonable and proportionate to revoke the driver's Dual Hackney Carriage and Private Hire Driver's Licence as they

were not a fit and proper person to hold such a licence under section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976.

The reason for the decision was that public safety was paramount and the overriding objective in the licensing of drivers is the safety of the travelling public. The Council's Hackney Carriage and Private Hire licensing policy provided a base line for consideration of conduct on whether a person is and remained a fit and proper person to hold a licence.

Matters that had occurred were set out in the report and regarded as extremely serious matters of concern which demonstrated that the driver did not take their professional responsibilities seriously and therefore were not a safe and suitable person to retain a licence. Such behaviour and conduct was considered by the Committee as putting the public at risk.

The Committee had applied a stepped and proportionate approach and considered all sanctions available.

The Council had a clear policy regarding renewal of a vehicle licence and it is the responsibility of the licensed driver, to submit the renewal application before expiry of the existing vehicle licence. The driver was reminded prior to the expiry date that the vehicle licence was due to be renewed.

The vehicle licence expired and in the circumstances as owner of the vehicle the driver should not have allowed the unlicensed vehicle to be used, putting the public at risk.

Records indicated that at first application and each subsequent renewal, as a licensed driver, the driver indicated that he had read and understood the Policy.

The Committee had due regard to the fact that the driver had been a licensed driver since October 2004 and would know the rules and procedures the Authority requires him to comply with. They also noted that the driver had a clear record up until the issue of penalty points in 2017 and 2022.

The Policy is in place for regularisation of hackney carriage and private hire licensing throughout its District and it outlines standards expected. If the vehicle licence renewal is not carried out in accordance with the policy within the timescales, the safety of the public cannot meaningfully be considered.

There was a right of appeal in respect of the decision to the Magistrates Court within 21 days of receiving written notice of the decision.

ENV890 (b)

(11:00 Councillor Robert Leadenham left the meeting and took no part in the debate or decision)

Decision

To suspend the Dual Hackney Carriage and Private Hire Driver's licence for a period of 14 days.

The Committee were asked if they were content to proceed to determine the issue before them as the driver was not in attendance. The Licensing Officer confirmed that all relevant notifications had been given to the driver, however, the driver had not confirmed whether or not he would be attending the meeting. The Committee **AGREED** to proceed with the issue in the absence of the driver.

The Licensing Officer presented exempt report EMV890(b) which concerned whether a dual driver remained a fit and proper person to hold a dual hackney carriage and private hire drivers' licence with South Kesteven District Council.

The driver had held a Dual Hackney Carriage and Private Hire Driver's Licence since June 2014. The driver's current badge was due to expire in June 2026. South Kesteven Penalty Points had been issued in June 2017 and May 2023 for failure to notify the Licensing team in respect of motoring convictions.

In August 2024 a picture of an unlicensed vehicle was received by the Licensing Team. The Licensing Team confirmed that the driver was driving the unlicensed vehicle at the time. Within the Hackney Carriage and Private Hire Licensing Policy SKDC Penalty Points could be awarded for using an unlicensed vehicle for carrying passengers for hire or reward to the maximum of 12 Penalty Points. Rather than issue the 12 Penalty Points the Authorised Officer can refer the matter to the Licensing Committee. If the driver had undertaken a walk around the vehicle check, the expired plate could have been highlighted. The Highway Code outlines how drivers of vehicles are required to undertake a check of their vehicle before driving. The Council's new Hackney Carriage and Private Hire Licensing Policy also requires a check to be undertaken by drivers, although due to the timing of the driver's licence renewal this aspect of the Policy was not relevant yet to them.

Questions were asked in respect of the display of plates, vehicle checks and whether there were any passengers to which the Licensing Officer replied.

The Licensing Officer then gave his closing statement. The introduction of the updated Hackney Carriage and Private Hire licensing Policy introduced the requirement to undertake daily vehicle checks, however, this was not currently relevant to the driver due to when they renewed their licence, but the Highway Code did outline how drivers were responsible for the condition of the vehicle they were driving and should undertake checks every time they drove. The

expired plate could have been highlighted at this point. Using an unlicensed vehicle could be awarded a maximum of 12 SKDC Penalty Points or referral to the Licensing Committee.

When determining the matter, the Committee must have regard to all relevant policies including the Council's Hackney Carriage and Private Hire Licensing Policy, the Department of Transport Standards and all relevant guidance. Options available to the Committee were:

- To suspend the driver for a defined period of time
- Revoke the dual driver's licence on the grounds that the applicant is not a fit and proper person to hold such a licence under section 61 (1) (b) of the Local government (Miscellaneous Provisions) Act 1976
- Issue a warning
- Take no action

(11:05 the Licensing Officers left the meeting)

Members discussed the issue before them, taking into account the report, appendices, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy and the Department of Transport Standards. Members were concerned that the expired plate had not been picked up by the driver and also the possibility that the unlicensed vehicle had been used on a school run. It was noted that an assumption could have been made by the driver of the vehicle that the owner of the vehicle had completed all the necessary paperwork for the vehicle to be licensed. Members were reminded that any sanction had to be proportionate. Various sanctions were discussed and it was proposed and seconded that a suspension be given for a defined period. There was some uncertainty as to the defined suspension period and both 31 and 14 days were proposed, however on being put to the vote a suspension of 14 days was **AGREED**.

(11:16 the Licensing Officers and Councillor Robert Leadenham returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had taken into consideration the report, appendices, the Council's Hackney Carriage and Private Hire Licensing Policy, legislation, Department for Transport Statutory Taxi and Private Hire Standards and the Councillor Handbook for Taxi and Private Hire Vehicle Licensing.

Public safety was paramount and that was why there are rules, regulations, conditions and policies which the driver should be abiding by. It was the driver's responsibility to adhere to the rules and abide by them.

The Committee considered the use of an unlicensed vehicle to be a serious matter and more care should have been taken to check the vehicle plate which showed that the vehicle licence had expired.

The Committee took a stepped approach, considering all sanctions available to them, including revocation.

The Committee had due regard to the fact that the driver has been a licensed driver since June 2014, and therefore fully aware of the rules, procedures and checks the Authority required drivers to comply with. They also noted that the driver had a clear record up until the issue of penalty points in 2017 and 2023.

The Committee decided to suspend the driver's licence for a period of 14 days. The aim of the sanction was to protect the public and was used as a corrective measure operating as an individual deterrent against future misconduct by the driver.

There was a right to appeal against the decision to the Magistrates Court within 21 days of receiving written notice of the decision.

34. Any other business which the Chairman, by reason of special circumstances, decides is urgent.

The Licensing Manager informed the Committee that the feedback requested in respect of the new Hackney Carriage and Private Hire Licensing Policy would be brought to the December meeting of the Committee to allow for a full four months of data to be compiled.

The Licensing Manager also referred to some concerns that were being received in respect of aspects of the new policy, specifically in respect of the written English exam and she advised Members that if they received contact from the media, they should be forwarded to the Comms Team. If drivers had specific concerns they wished to raise, these should be put in writing to the Chairman of the Licensing Committee.

35. Close of meeting

The meeting closed at 11:26.