

Runnymede Borough Council

REGULATORY COMMITTEE

22 May 2007 at 10 a.m.

Members of the Committee present: Councillors D.W. Parr (Chairman), R.J. Edis, C. Knight and B.J. Relph

Members of the Committee absent: Councillor Mrs P.I. Broadhead (Vice-Chairman)

21. MINUTES

The Minutes of the meeting of the Committee held on 4 April 2007 were confirmed and signed as a correct record.

22. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs P.I. Broadhead.

23. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

By resolution of the Committee, the press and public were excluded from the hearing during the consideration of this report under Section 100A(4) of the Local Government Act 1972 on the grounds that the report in question would be likely to involve the disclosure of exempt information of the description specified in paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Act.

The Chairman established with the applicant, who was unrepresented, that he wished for the Proper Officer to present his case first. The applicant confirmed that he had received all the paperwork for the meeting.

The legal advisor explained the procedure and process of the meeting, which was in essence to determine whether, on the balance of probability, having considered the information presented at the meeting, the applicant was a 'fit and proper person' to be granted a Private Hire Driver's Licence taking account of the meaning ascribed under the provisions of Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The Proper Officer advised the Committee that the applicant had two spent convictions and one 'live' caution for theft. The applicant had been candid about this incident in an interview with one of the Council's Licensing Officers. However, the nature and circumstances of the matter, as detailed in the Proper Officers report to the Committee, gave rise to concerns as to the applicant's suitability as a Private Hire Vehicle Driver.

The applicant was invited to explain the events leading to his caution. He was advised that although the other offences were spent they could be taken into account because the Taxi Driver's Licence is an exempt category under regulations relating to the Rehabilitation of the Offenders Act.

The applicant described how he had been involved in a minor traffic accident with a bus which resulted in scuff marks along the side of his vehicle. It was not clear whether there was any damage to the bus. At the time he felt aggrieved and wanted to challenge the bus driver who he felt was at fault and responsible for the incident. He did so with little response from the said driver, and in an attempt to engage him in dialogue reached up into the cab and removed his spectacles.

This provoked a response, but not one that the applicant felt was proportionate to his actions. The applicant left the scene in haste placing the bus driver's spectacles in the glove compartment of his own vehicle, where they lay undisturbed for a period of three months.

The applicant did not report the accident with the bus to the Police, nor did he exchange insurance details with the bus driver, he acknowledged this was wrong and sincerely regretted his actions. He

confirmed that there were no witnesses to the accident, so it could be assumed there were no passengers on the bus and that it was not in service at the time. The Committee concluded from this and subsequent events that the bus driver had reported the incident and the applicant's actions to the Police.

The applicant informed the Committee that he had forgotten all about the incident until his application for a CRB check was lodged as required by the Council when applying for a Private Hire Driver's Licence. At that point, some three months after the incident in November 2006, the Police invited him along to the Police Station which he attended with his solicitor. He was duly cautioned for the theft of the bus driver's spectacles. The applicant returned the spectacles immediately and made a full apology for his actions.

The applicant felt the Police did not take the matter very seriously, claiming they informed him that no action would have been taken against him had he not gone through the process of obtaining a CRB check and that the caution was no more than a 'slap on the wrist'.

The applicant stated that had he realised the seriousness of the situation now he should have cleared his name by challenging the caution before applying for a Private Hire Driver's Licence, but was apparently given the impression by the Police that being cautioned would not adversely affect his application.

The Committee considered that the applicant's actions at the scene of the accident, i.e. leaving the scene without exchanging details with the other driver for the purposes of insurance was an offence. The Proper Officer added that where a collision of any kind resulting in an adverse effect on either vehicle was an accident and should have been reported to the Police. The applicant agreed that his actions were wrong and that he would in hindsight have acted differently.

Members wanted to be re-assured that given the daily challenges of being a taxi driver; encountering rowdy customers, customers who refused to pay, aggression from other users of the road, that the applicant would not exhibit his previous behaviour which amounted to 'road rage' and dishonesty. The applicant was keen to point out that he did not make the same mistake twice and had learnt from his experiences how to react to difficult situations.

In response to a direct question regarding the applicant's conviction for obstructing the Police in 1996, and now spent, the applicant explained that he had been involved in a disagreement with the Police after he challenged their alleged rough treatment of third party suspect during an arrest.

The Committee asked what had prompted the applicant's desire to change his career from roofer to taxi driver and were informed that he no longer wanted to be out on a construction site all day, having been employed as a roofer since leaving school. He was keen to re-assure the Committee of his honesty and helpful nature and that the offences he had committed were completely out of character and in his past.

The applicant and the Proper Officers left the Chamber whilst Members deliberated on their decision.

The Legal Advisor explained there were no judicially approved tests to determine fitness and propriety but that it was appropriate to ask themselves whether they as a Member of the Regulatory Committee charged with the ability to grant a Private Hire Driver's Licence would be happy for a member of their family or someone else they cared for to get into a vehicle with the applicant alone. If the answer was an unqualified 'yes' then that basic test based on established law and practice would probably be satisfied but it would be prudent to consider all relevant matters.

Members noted that although personal references had been supplied the forms for providing references would benefit from a review to ensure more rigour in the process. Officers were asked to give consideration to this matter.

Members of the Committee considered the application from Mr A for a private hire driver's licence to operate within the borough of Runnymede and determined that on account of his recent caution in November 2006 he was not on the balance of probability a fit and proper person under the provisions of Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

In accordance with Council guidelines, Members of the Committee considered that offences involving dishonesty must be treated very seriously on account of the high element of trust that was placed on drivers of private hire vehicles. Members were also concerned that the recent caution for theft contained an element of apparent road rage and that the applicant had not demonstrated sufficiently that such an incident would not occur again if provoked by an irate or unruly customer or other road user.

The Committee's priority was to protect the public and there was sufficient doubt in their minds for the reasons set out in the report and presented at the meeting not to grant the licence on this occasion.

RESOLVED that –

- i) the application for a private hire driver's licence by Mr A be refused;**
- ii) Mr A be advised of his right to appeal within 21 days of the date of notification of the refusal; and**
- iii) the decision to refuse the application for the said private hire driver's licence be confirmed in writing to Mr A.**

Chairman

(The meeting ended at 11.21 a.m.)