

**GATESHEAD COUNCIL
REGULATORY COMMITTEE**

SUMMARY OF DECISION

Name of Licensee: Maurice Pilcher

Address: 75 Regent Court Gateshead NE8 1HB

For Determination : Application for Dual (Hackney Carriage and Private Hire)
Driver Licence

Date of Hearing: 6 September 2016

Reason for hearing

Mr Pilcher appeared before the Council's Regulatory Committee on 6 September 2016 to consider whether he is a 'fit and proper' person to be licensed as a Hackney Carriage and/or Private Hire Driver by this Council.

Mr Pilcher's fitness and propriety was called into question by his pattern of violence related offences as set out in the Licensing Officer's report to the Committee.

The Committee decided as follows :

To refuse Mr Pilcher a Dual (Hackney Carriage & Private Hire) Driver licence.

Reasons for decision

Prior to the hearing, the Committee read the Licensing Officer's report referred to above.

Mr Pilcher attended the hearing and confirmed that he had received the report prior to the hearing, that he had read and understood it, and that the information contained was accurate and complete in respect of his conduct relevant to the Committee's determination.

The Committee heard representations from Mr Pilcher (who was accompanied by Mr Dave Kennedy of Central Taxis Gateshead Ltd which is a Private Hire Operator licensed by this Council), as set out below.

The Committee considered the Home Office / Department For Transport guidance and the Council's own policy in respect of the factors to be taken into account when determining

whether a person is 'fit and proper' to hold a Hackney Carriage and/or Private Hire Driver licence, and noted in particular –

- the Home Office / Department For Transport Guidance states –
 - “Every case will be decided on its own merits”
 - “The overriding consideration should be the protection of the public”
 - “Violence – As Hackney Carriage and PHV Drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such conviction should be shown before an application is entertained and even then a strict warning should be administered”; and
- Gateshead Council’s own Policy on the Relevance of Criminal Conduct states –
 - “The Regulatory Committee are required to look at any relevant indicators that may affect a person’s suitability to hold a licence, and to consider the possible implications of granting such a licence to that person”
 - “‘Fit and proper person’ - Whether someone is a ‘fit and proper person’ to hold a licence is ultimately a matter of common sense. When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind, for example elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, foreign visitors and unaccompanied property”
 - “‘Not abusive’ – drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands”
 - “Violence – As Hackney Carriage and Private Hire Drivers maintain close contact with the public, any previous convictions and/or cautions for violence will be taken seriously by the Regulatory Committee.

An application should be refused or existing licence revoked where the applicant has a conviction for one of the following offences and where a conviction is less than 5 years prior to the date of application:

- Assault occasioning actual bodily harm
- Common assault

The above guidelines are applicable to new applicants and existing licence holders who have committed one offence. If a new applicant or existing licence holder has committed two or more violence related offences, the licence should normally be revoked or refused.”

- “Patterns – A series of incidents of criminal conduct over a period of time is more likely to give cause for concern than an isolated incident.”

- “Protecting the public’ – Licensed drivers play a vital role in helping to ensure that vulnerable people are kept safe. ‘Vulnerability’ in this context includes lone, drunk, disabled and foreign passengers as well as children. Passengers place their trust in the drivers of licensed taxis. Where that trust is abused, the consequences can be very serious and wide ranging.”
- “The overriding consideration for the Members of the Regulatory Committee is to protect the public. Having considered and applied the appropriate guidelines, the following question should be asked –

“Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any person I care for or any vulnerable person I know, to get into a vehicle with this person alone?”

If the answer is yes, then a licence should normally be approved. If the Regulatory Committee has any doubts, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant / licence holder to satisfy the Regulatory Committee.”

The Committee had due regard to the following matters:

Legislation

The Committee had regard to the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1976, as follows –

- Section 51(1)(a) : “Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver’s licence : Provided that a district council shall not grant a licence— unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence”; and
- Section 59(1)(a) : “Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence”

The Committee also had regard to the Applicant’s right to a fair hearing pursuant to the Human Rights Act 1998.

Individual circumstances

The Committee had regard to the information contained in the Licensing Officer’s Report dated 26 August 2016.

Mr Pilcher accepted that he had acted inappropriately when he had been violent towards his children, but invited the Committee to find him to be a fit and proper person in light of the fact that the convictions relate to domestic incidents during a period of his relationship breaking down, and as such were out of character.

Ms Debbie Wilkinson, who is the Council's team manager for safeguarding and care planning, was in attendance and advised the Committee that the council's Family Intervention Team became involved with Mr Pilcher following the incident in 2013; and again following the incident in 2015. Ms Wilkinson stated that whilst there is an ongoing child protection plan, no restrictions have been placed on Mr Pilcher's contact with his children.

The Committee were mindful that holding a Hackney Carriage and/or Private Hire Driver licence is a privilege and not a right, and that under the Local Government (Miscellaneous Provisions) Act 1976 as above, licensing authorities *must not* permit a person to be licensed unless they are *satisfied* that the person is fit and proper to hold that licence, so where on the balance of probabilities there is doubt as to a person's ability to properly provide those services they must not be licensed.

Having regard to the individual circumstances, the Committee found that they were not satisfied that Mr Pilcher is a fit and proper person to be licensed as either a Hackney Carriage and Private Hire Driver by this Council.

The Committee were mindful of the realities of the profession, where drivers are often the subject of unwarranted abuse from members of the public, and considered that the pattern of violent conduct demonstrated by Mr Pilcher gave concern as to whether he would act appropriately in such situations.

The Committee did not consider that the individual circumstances justified deviation from the Council's policy, and that Mr Pilcher's application should accordingly be refused.

In making this decision, the Committee were mindful that the repetition of unacceptable conduct indicates a propensity for wrongdoing that should generally cause greater concern about the person's likely future conduct.

The Committee noted that in reaching their decision they only had regard to such factors as are relevant to ensuring public safety and not by the impact that their decision may have on the individual's personal circumstances or livelihood.

Right of appeal

If Mr Pilcher is aggrieved by the Committee's decision in this respect he has the right to appeal to Gateshead Magistrates' Court within 21 days of the decision. As Mr Pilcher was in attendance at the hearing and was duly notified of the decision at that time, any such appeal should be brought within 21 days of the hearing date.

Gary Callum
Licensing Officer
Development, Public Protection & Transport Strategy
7 September 2016