

**GATESHEAD COUNCIL
REGULATORY COMMITTEE**

SUMMARY OF DECISION

Name of Licensee: Paul Holt
Address: 36 Wylam Road Stanley DH9 0EN
For Determination : Application for Private Hire Driver Licence
Date of Hearing: 6 September 2016

Reason for hearing

Mr Holt 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 Private Hire Driver by this Council.

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

The Committee decided as follows :

To refuse Mr Holt a Private Hire Driver licence.

Reasons for decision

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

Mr Holt 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 Holt 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”
- “Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding, etc should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant’s driving licence then a hackney carriage or PHV licence may be granted after its restoration but a warning should be issued as to future conduct. An isolated conviction for reckless driving or driving without due care and attention etc should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed”; 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”
 - “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”
 - “‘A good and safe driver’ – passengers paying for a transport service rely on their driver to get them to their destination safely. Taxi and private hire drivers are expected to be professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence”
 - “Compliance with conditions and requirements of Licensing Authority – the regulatory Committee may take into account a person’s history whilst holding a licence, from this or any other authority. The Regulatory Committee may take into account, in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record or complaints about the, also their compliance with licence conditions and their willingness to cooperate with the reasonable requests of Licensing Officers”
 - “Driving offences – new applicants – if a significant history of offences is disclosed, an application may be refused”
 - “‘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”

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 Holt accepted that he had a pattern of unacceptable conduct whilst driving, but stated that on each occasion where he was caught speeding he had only been a few mph over the speed limit; and that since being caught driving using his mobile phone he no longer does this.

In respect of the offences that led to his most recent period of disqualification, Mr Holt stated that in the first instance he was travelling on the A1 at 38mph in a 30mph zone; and in the second instance he was travelling back down the A1 at 44mph in the same 30mph zone; and that he had mistakenly believed –

- (a) That the speed limit was 40mph

- (b) That the speed cameras calculated his average speed between two points
- (c) That in these circumstances he would not be convicted of speeding if his average speed was 40mph or less even if he was actually recorded driving at a speed in excess of 40mph
- (d) That the average of 38mph and 44mph is 40mph or less, rather than 42mph

The Committee were mindful that holding a 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 Holt is a fit and proper person to be licensed as a Private Hire Driver by this Council.

The Committee were seriously concerned by the pattern of motoring offences which has been ongoing for a number of years, including a major offence in 2014 and an accumulation of points sufficient to be disqualified from driving. The Committee were also seriously concerned by Mr Holt's pattern of failing to notify the Council of points on his licence and his disqualification when he was licensed as a Private Hire Driver and was therefore in breach of the conditions of his licence. Mr Holt's disregard of his licence conditions led the Committee to conclude that if Mr Holt were issued with a licence it is likely he would again fail to comply with its requirements.

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 Holt 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 Holt 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