

**TO: CHAIR AND MEMBERS OF THE
REGULATORY COMMITTEE
FOR 15 NOVEMBER 2016**

REF NO: RC/33/16

ITEM FOR DECISION

HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES

**NOT FOR PUBLICATION BY VIRTUE
OF PARAGRAPH 7 OF PART 1 OF
SCHEDULE 12A OF THE LOCAL
GOVERNMENT ACT 1972**

APPLICANT: MR DAVID BOYD

DATE OF BIRTH: 18 DECEMBER 1966

ADDRESS: 7 NORTHVIEW, WREKENTON, GATESHEAD, NE9 7UT

PURPOSE OF REPORT: APPLICATION FOR GRANT OF A PRIVATE HIRE
DRIVER LICENCE

DATE OF APPLICATION: 28 SEPTEMBER 2016

PROSPED OPERATOR: TBC

DETAILS OF PREVIOUS COMPLAINTS/CONVICTIONS/CAUTIONS

DATE CONVICTION/CAUTION/ FPN	OFFENCE	FINE/SENTENCE
1. 19 March 1985	Criminal damage,	2 year conditional discharge, £10 costs, £95 compensation, Gateshead District Magistrates' Court
2. 12 May 1982	Theft of vehicle	£20 fine, £66 compensation, £5 costs, driving licence endorsed. Gateshead District Juvenile Court

INFORMATION

Background

This is an application for a Private Hire Driver licence. The Applicant appears before Members in relation to 2 offences detailed on page 2 of this report.

Pre-Committee Inquiries

The Applicant will be meeting with Licensing Officers to discuss the circumstances surrounding the above offences, and supplementary information will be provided to the Regulatory Committee prior to this hearing to assist them in determining this application.

Offence 1, Criminal damage (19 March 1985)

Further details of this offence will be provided in due course.

Offence 2, Theft of vehicle (12 May 1982)

Further details of this offence will be provided in due course.

Relevant extracts from Gateshead Council Policy

Suitability

The Local Government (Miscellaneous Provisions) Act 1976 deals with the issue of driver suitability:

“...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a fit and proper person to hold a driver’s licence.”

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

“...the district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds –

- 1) that he / she has, since the grant of the licence,
 - i) been convicted of an offence involving dishonesty, indecency or violence; or
 - ii) been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses Act 1847 or Part of this Act

or

- 2) any other reasonable cause.”

Therefore the wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is fit and proper – the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

A “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.

Some areas give rise to particular concern, including -

Honesty and trustworthiness – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust.

Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken of any convictions involving dishonesty.

A new application will normally be refused or an existing licence revoked where a person has a conviction for an offence of:

- Theft

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
- Criminal damage with a value of £500 or more

Relevant extracts from the Home Office Guidelines

Dishonesty

Hackney Carriage and Private Hire drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become ‘fair game’ for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

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 convictions should be shown before an application is entertained and even then a strict warning should be administered.

FOR DECISION

The Regulatory Committee may:

The Regulatory Committee may;-

- a) Refuse the Application
- b) Grant the Licence for a period of 1, 2 or 3 years
- c) Add a condition to the private hire driver Licence
- d) Grant the licence for a period of 1,2 or 3 years with a written warning as to future conduct
- e) Adjourn the matter for further enquiries if applicable

Legal Officer's advice

The Legal Officer has advised that in deciding whether or not the Committee are satisfied that the Applicant is a fit and proper person to hold a licence, they should only have regard to such factors as are relevant to ensuring public safety, and as such cannot have regard to the impact that their decision may have on the Applicant's livelihood. .

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