



Agenda

Public Protection Committee

Date:

Wednesday, 14th December 2022 at 11:00am

Venue:

Town Hall, St Annes, FY8 1LW

Committee members:

Councillor Shirley Green (Chairman)
Councillor Ray Thomas (Vice-Chairman)

Councillors Frank Andrews, Brenda Blackshaw, Alan Clayton, Gavin Harrison, Karen Henshaw JP, Paul Hodgson, Angela Jacques, Michael Sayward, Stan Trudgill.

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 16th November 2022 as a correct record.	1
3	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 23(c).	1
	DECISION ITEMS:	
4	Hackney Carriage and Private Hire Driver - AA	3

Contact: Democracy - Telephone: (01253) 658504 – Email: democracy@fylde.gov.uk

The code of conduct for members can be found in the council's constitution at
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

© Fylde Council copyright 2022

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context.

The material must be acknowledged as Fylde Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at www.fylde.gov.uk

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to listening@fylde.gov.uk.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	PUBLIC PROTECTION COMMITTEE	14 th DECEMBER 2022	4
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER – AA			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

AA holds a combined hackney and private hire drivers licence issued by this Authority. Information has been received regarding AA, the details of which will be presented to members at the Committee. The Committee is requested to determine whether they consider AA a fit and proper person to hold a licence.

RECOMMENDATION

That the Committee considers the report and either:

- a) Notes the report and take no further action
- b) Issue a warning letter
- c) Suspend the licence
- d) Revoke the licence

SUMMARY OF PREVIOUS DECISIONS

[23rd March 2022](#) - AA was referred to the Public Protection Committee following a report of driving in an intimidating matter. Warning letter issued.

[16th November 2022](#) – AA was referred to the Public Protection Committee following a complaint that he refused to carry a guide dog. Warning letter to be issued along with a meeting with Fylde Borough Council Senior Officials when he was to be warned regarding his future conduct as a licensed driver.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	✓

REPORT

1. AA is a current licensed driver, holding a combined hackney carriage and private hire driver's licence which is valid until September 2023. A complaint has been received, further details of which will be provided to members at the meeting.
2. Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states "a 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":-
 - a. that he has since the grant of the licence:-
 - i. been convicted of an offence involving dishonesty, indecency or violence
 - ii. been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of the Act; or
 - b. any other reasonable cause"
3. The Council's Statement of Taxi and Private Hire Licensing Policy, concerning "fit and proper persons is attached for members information and use and they should pay particular attention to Section 1 Introduction and Appendix 1.
4. Should the Committee feel it appropriate to suspend or revoke the licence, the grounds for such a decision must be given to the driver within 14 days of the decision and a driver aggrieved by the decision may appeal to the Magistrates' Court.
5. AA has been invited to the meeting and the Committee is therefore requested to consider the report and determine whether to:
 - a. note the report
 - b. issue a warning letter
 - c. suspend the licence
 - d. revoke the licence

IMPLICATIONS	
Finance	No implications arising directly from the report.
Legal	<p>The Committee should have regard to the requirements of fairness and proportionality and to the European Convention of Human Rights in reaching its decision. However, the purpose of the system of driver licensing is to protect the public. If the committee considers that it should suspend or revoke the licence in order to protect the public, it should not concern itself with the effect on the applicant.</p> <p>Where the council has adopted a policy which applies to a particular matter, it must take the policy into account when making its decision. Although it is not bound to follow the policy, any decision that is contrary to it should be supported and explained by clear and adequate reasons for departing from the policy.</p>
Community Safety	No implications arising directly from the report.

Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Andy Hough	andy.hough@fylde.gov.uk 01253 658606	6 December 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Fylde Council Taxi and private hire licensing policy		https://new.fylde.gov.uk/business/licensing/taxi-licensing/hackney-carriage-and-private-hire-licensing-policy/

Attached documents

Appendix 1 – Summary of relevant points from Fylde Council’s Hackney Carriage and Private Hire Licensing Policy

Section 1 – Introduction

4.1 Fit and Proper Person Test

Licensed drivers are in a position of trust transporting the young and vulnerable at all times of the day and night. The legislation requires that licences can only be granted if the Council is satisfied that the applicant is a fit and proper person.

Whilst there is no definition of a fit and proper person, decisions from the Courts over the years have come to the conclusion that the Council is effectively asking the following question:

Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?

During the application process the Council will undertake a number of checks to gather the information necessary to assess the suitability of the applicant.

Factors that will be taken into account when reaching a decision include:

- Criminality (whether the applicant has any criminal convictions or cautions)
- Driving Licence – length held and penalty points endorsed
- Right to work in the UK
- Medical Fitness
- General Conduct/standards of behaviour
- Conduct of the applicant during the application process
- Previous licensing history
- Knowledge of the Borough of Fylde, and other matters such as the Highway Code and taxi law
- Ability to communicate and understand English

This is not an exhaustive list of matters that will be considered and further information will be sought from other agencies such as the Police, Safeguarding Boards and other licensing authorities as appropriate.

Appendix A – Taxi and PHV Licensing Criminal Convictions’ Policy

1.3 The term “fit and proper person” for the purposes of licensing is not legally defined and in assessing whether someone is “fit and proper” the Council will consider the following together with any other relevant information:

- Criminality
- Human rights
- Period of holding a driver’s licence
- Number of penalty points endorsed on driving licence
- Right to work
- Medical fitness
- Conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
- Previous licensing history of existing and former licence holders

In addition the Council will also consider further information provided by sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

1.5 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Public Protection Sub-Committee. Whilst officers and the Sub-Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.

2.4 All decisions on the suitability of an applicant will be made on the balance of probability. Applicants will not be given the benefit of the doubt and should the Public Protection Committee be only “50/50” as to whether the applicant is ‘fit and proper’ the licence will not normally be granted.

5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers’ licence and/or private hire vehicle operators licence is a ‘fit and proper’ person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant’s age at the time of conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

5.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.

5.7 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For all these reasons, a serious view is taken of any conviction involving dishonesty.