



## Cambridge City Council TAXI REGULATORY HEARING

**Date:** Monday, 16 March 2020

**Time:** 11.30 am

**Venue:** Committee Room 1 & 2, The Guildhall, Market Square, Cambridge, CB2 3QJ

**Contact:** [democratic.services@cambridge.gov.uk](mailto:democratic.services@cambridge.gov.uk), tel:01223 457000

### Agenda

- 1 Appointment of a Chair
- 2 Declarations of Interest
- 3 Meeting Procedure
- 4 First Renewal Application

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## **Licensing Sub-Committee: Taxi Applications Hearings Procedure**

The City Council is the licensing and regulatory authority for Hackney Carriages and Private Hire Vehicles within the City of Cambridge. The Licensing Team of the Refuse and Environment section of the City Council is responsible for all licensing matters and an “Officer” is a manager or member of that team.

### **Preparation of Report**

1. Where the Officer considers that the Taxi Regulatory Sub-Committee should decide whether an applicant for a licence is a fit and proper person to hold the licence for which she/he has applied, the Officer will refer the matter to the Sub-Committee. See Appendix for the relevant legislation.
2. Where the Officer has reason to believe that any of the circumstances set out in sections 60 or 61 of the 1976 Act may apply, the Officer will conduct an investigation on behalf of the Environmental Health Manager.
3. Following investigation and where the Officer considers it appropriate to do so, the Officer will prepare a report for the Sub-Committee setting out the following:
  - the relevant law, Council policy and the powers of the Sub-Committee;
  - the information obtained as a result of the investigation and the source of that information;
  - any matters in dispute.

### **Preparation for the Hearing**

4. The Officer will write to the driver and ask her/him to say which of the witnesses she/he wants to attend the hearing to give their evidence in person. The Council will write to the driver, and the witnesses to tell them when and where the Sub-Committee meeting will be held.
5. The Officer will write to the driver giving details of the evidence which has not been included in the report because it is evidence that the driver can be expected to know about already, or there is good reason for keeping it confidential.
6. Evidence can be given in writing or orally, by the Officer, the driver or their witnesses. There are no legal restrictions limiting what kind of evidence can be heard or the form in which it must be presented.

7. If a witness whose presence is requested by the driver is unable or unwilling to attend and the Sub-Committee does not wish to adjourn the hearing, the evidence may be given in writing instead.
8. The driver can give evidence about her/his character in any way she/he thinks fit, e.g. by letters of reference or by calling witnesses.
9. The Environmental Health Manager will send the driver a copy of the report at least 5 working days before the hearing to give her/him the opportunity to comment on it or, if she/he chooses, to submit further written representations or additional evidence.
10. When presenting the report to the Sub-Committee the Officer will inform the Sub-Committee of any comments, representations or additional evidence submitted by or on behalf of the driver.
11. At any stage the driver may instruct someone (such as a solicitor, a friend or relative, an employer or a member of a trade organisation) to act as her/his representative. The driver can be represented at the hearing whether or not the driver attends the hearing.
12. If the driver fails to attend the hearing the Sub-Committee may decide to continue in her/his absence.
13. Any references in this note to a driver should be taken to include her/his representative.

### **Conflict of Interest**

14. If a member of the Taxi Regulatory Sub-Committee becomes aware of a possible conflict of interest before or during the hearing she/he should raise this with the Head of Legal Services.
15. Members should not take part in hearing a case if they have a personal interest or involvement with it or the issues raised by it might be seen as affecting their impartiality, e.g if they know the driver or a complainant, or they have been previously involved with the case or a closely related case in another capacity.

### **The Hearing**

16. Present at the hearing will be members of the Taxi Regulatory Sub-Committee, the Officer and a Legal Officer who will be the Sub-Committee's legal adviser. A Committee Manager may also be present.

17. At the start of the hearing the Chair of the Sub-Committee will open the meeting, introduce the members of the committee and officers present and explain the procedure to be followed.
18. The committee members will decide whether members of the press and public should be excluded from the remainder of the meeting.
19. The Officer will outline the report and present any witnesses in support of the Officer's case.
20. Members may ask any relevant questions of the Officer or witnesses.
21. The Chair will invite the driver or her/his representative to ask any questions of the Officer or witnesses.
22. The Chair will invite the driver or a representative to put the driver's case to the committee. This will include calling any witnesses. Witnesses will be allowed into the hearing only when giving their evidence.
23. Members may ask any relevant questions of the driver and/or her/his witnesses.
24. The Officer may ask any relevant questions to clarify the evidence or information that has been given.
25. When all the evidence has been offered, the Chair will invite all parties to summarise their points if they wish.
26. The Chair will ask all parties if they are satisfied that they have had the opportunity to say everything that they wish to say.
27. The Chair will invite the Legal Adviser to the Sub Committee to give any legal advice that the Adviser considers to be appropriate.
28. If the Sub-Committee wish to consider their decision in private, everyone, except the members of the Sub-Committee, will be asked to leave the room; alternatively the Sub-Committee will withdraw to another room. The Sub Committee may invite the Legal Adviser to join them. Any legal advice given to the Sub Committee when they are withdrawn will be reported back to the hearing before the Chair resumes it.
29. The Sub Committee may reconvene the meeting in order to seek clarification of the facts.

30. When the decision has been made the Chair will announce this to the driver.

## **The Decision**

32. Following the hearing the Council will write to the driver with formal notification of the decision of the Sub-Committee and informing the driver of the right to appeal to the Magistrates Court and the time within which appeals must be submitted.

33. A suspension or revocation of a drivers licence will take effect at the end of the period of 21 days beginning with the day on which written notice of the Sub-Committee decision was given to the driver unless the Sub-Committee have decided that the interests of public safety require the suspension or revocation to have immediate effect. The letter notifying the driver of the Sub-Committee's decision will include a statement that this is so and an explanation why. The suspension will then take effect when the letter notifying the decision is given to the driver.

34. In urgent cases, the Environmental Health Manager has delegated power to suspend a driver's or vehicle licence. If this power is used the driver/proprietor will be notified of the decision and of their right to appeal to the Taxi Regulatory Sub-Committee within 14 days. If an appeal is submitted the hearing must take place within 7 days of receipt.

35. If, in the opinion of the Environmental Health Manager the interests of public safety require that the suspension of a driver's licence has immediate effect the letter to the driver will include a statement that this is so and an explanation why. The suspension will then take effect when the letter notifying the decision is given to the driver.

## **APPENDIX**

Pursuant to section 60 (1) of the Local Government (Miscellaneous Provisions) Act 1976 the City Council has power to suspend or revoke or refuse to renew a vehicle licence on any of the following grounds:

- a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- b) any offence under, or non-compliance with, the provisions of the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976 by the operator or driver; or
- c) any other reasonable cause

Pursuant to section 61 of the Local Government (Miscellaneous Provisions) Act 1976 the City Council has power to suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or 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; or

been convicted of an offence under, or has failed to comply with the provisions of the Town Police Clauses Act 1847 of or Part II of the Local Government Miscellaneous Provisions Act 1976; or

aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

b) any other reasonable cause.

(1A) Subsection (1)(aa) does not apply if-

(a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the driver has been required to pay an immigration penalty—

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full.

(2)(a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

(b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(2ZA) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 62A applies (but see subsection (2) of that section).

(2)(a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within 14 days of such suspension, revocation

or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

(3) Any driver aggrieved by a decision of a district council under subsection (1) of this section may appeal to a magistrates' court.

### **Enforcement Action**

Specific consideration will be given to the following items contained under 'Level 3 Enforcement' of the 'Hackney Carriage and Private Hire Enforcement System' by the Environmental Health Manager, and subsequently the Licensing Sub-Committee, who may exercise discretion to grant or to renew a licence, or to suspend or revoke an existing licence.

1. The licence holder has committed an action covered in Levels 1 and 2 where they have been interviewed by an officer of the Commercial & Licensing Team in the previous 12 month period and a final written warning has been given.

2. The licence holder or licence applicant has been convicted of any offence of a sexual nature which is not spent under the Rehabilitation of Offenders Act 1974.

3. The licence holder or licence applicant has been convicted of any offence involving possession, supply of drugs or a related offence which is not spent under the Rehabilitation of Offenders Act 1974.

4. The licence holder or licence applicant has been convicted of any offence involving dishonesty which is not spent under the Rehabilitation of Offenders Act 1974.

5. The licence holder or licence applicant has been convicted of any offence involving violence which is not spent under the Rehabilitation of Offenders Act 1974.



6. The licence holder or licence applicant has been convicted within the last 5 years of more than one offence of drunkenness or related.

7. The licence applicant has held their DVLA driver's licence for less than 2 years after its return as a result of suspension for any reason.

8. The licence holder or licence applicant has been convicted of any offence relating to alcohol and motor vehicles which is not spent under the Rehabilitation of Offenders Act 1974.

9. The licence holder or licence applicant has been convicted within the past 3 years of any offence which has resulted in 6 or more points being attached to their DVLA driver's licence.

10. The licence holder or licence applicant has been convicted within 1 year of any combination of offences which has resulted in more than 6 points being attached to their DVLA driver's licence.

11. If at the time of application (for grant, renewal or during the life of an existing licence) the licence holder or licence applicant has more than 9 points attached to their DVLA driver's licence.

12. If the licence holder or licence applicant has one or more convictions relating to

- Town Police Clauses Act 1847
- Part II of the Local Government (Miscellaneous Provisions) Act 1976
- Part IV of the Transport Act 1980
- Part I of the Health Act 2006
- Chapter 1 of Part 12 of the Equality Act 2010

which is not spent under the Rehabilitation of Offenders Act 1974.

13. If the licence holder or licence applicant is found to be living or working in the UK without the required authorisation, or if they have committed any offences arising from Asylum & Immigration matters.

14. If the licence holder or licence applicant fails the initial or refresher safeguarding training test paper on three occasions or fails to complete the training as required by the Council.

15. If the licence holder or licence applicant presents a medical assessment (or makes a declaration) for consideration but does not declare them unfit to drive.

16. Upon the application for or the duration of a licence, if there is intelligence, supplementary information or any other reasonable cause where officers have concerns about the grant or the continuation of a licence.



Item

## **TO CONSIDER CAB23'S APPLICATION FOR A FIRST RENEWAL OF AN OPERATOR'S LICENCE WITH CAMBRIDGE CITY COUNCIL**

**To: Licensing-Sub Committee: Taxi Regulatory Hearing**

**Report by: Gemma Tilley - Team Manager (Commercial & Licensing)**

Tel: [gemma.tilley@cambridge.gov.uk](mailto:gemma.tilley@cambridge.gov.uk) E-mail: 01223 457727

**Wards affected: All**

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NOT FOR PUBLICATION: The Appendices 1-4 relates to an item during which the public is likely to be excluded from the meeting by virtue of paragraphs 1 & 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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## **1. INTRODUCTION**

- 1.1 The purpose of this report is to consider CAB23's first renewal application for a Private Hire Operator's Licence to operate Private Hire Vehicles licensed by Cambridge City Council.
- 1.2 The application is classed as a first renewal application which is for any Private Hire Operator wishing to renew the licence at the expiry of the first year of holding the licence. The current application procedure for first renewals requires an operator to demonstrate that they have been operating a private hire business for the full duration of the licence; the matter is then referred to the Licensing Sub-Committee for determination.

## **2. RECOMMENDATIONS**

- 2.1 It is recommended that Members consider the information contained in this report, any representations made to them and the legislative provisions and policy considerations detailed in paragraphs 4 and 5 below, and determine whether Mr Tsakanikas, operating as CAB23, is a "fit and proper person" to continue to be licensed by Cambridge City Council as a holder of a Private Hire Operator's Licence.

## **3. BACKGROUND**

- 3.1 CAB23 was first granted a Private Hire Operator's Licence (Licence Number: PHO091) on 4<sup>th</sup> April 2019. The licence is due to expire on 3<sup>rd</sup> April 2020. A copy of the current licence is as Appendix 1.

- 3.2 Mr Tsakanikas, the holder of the Private Hire Operator licence for CAB23, has been a licensed driver with Cambridge City Council since at least 2004 according to our records. He also currently holds a Dual Driver's Licence which is due to expire on 15<sup>th</sup> January 2023.
- 3.3 CAB23 was contacted on 19<sup>th</sup> December 2019 and were also advised that their first renewal would have to be referred to Committee to determine. They were also advised they would need to be inspected should they wish to renew their Private Hire Operators licence.
- 3.4 An operator inspection was conducted by Alexander Nix on 23<sup>rd</sup> January 2020 at the registered office address of CAB23. The business is located in a purpose built office block and, for clarification, does not offer any waiting room facilities for customers. A copy of the inspection form is at Appendix 2.
- 3.5 Applicants renewing their operator's licence are able to renew their licence for either one or five years. The renewal fee has not yet been paid and is pending the outcome of this Committee.
- 3.6 A sample of the records evidencing that CAB23 has been operating for a year since the initial grant of the licence is also attached at the end of the operator inspection at Appendix 2. All the records seen have been in accordance with the conditions attached to the licence.
- 3.7 Mr Tsakanikas uses the Private Hire Operators licence for CAB23 to conduct airport runs and other private hire work using his own vehicle (HCV325) and two private hire vehicles (PV1498 & PV1415) licensed by Cambridge City Council. He also uses some other vehicles and drivers licensed by South Cambridgeshire District Council under a Private Hire Operators licence issued by them (PO – 0135).

- 3.8 CAB23 also accepts sub-contracted work from another operator licensed by South Cambridgeshire District Council.
- 3.9 No complaints have been received concerning the operator since the grant of the licence. However Mr Tsakanikas notified us on 19<sup>th</sup> March 2019 that he had received six points on his licence for exceeding a speed limit on a motorway. A copy of the declaration is at Appendix 3.
- 3.10 Mr Tsakanikas was also sent a warning letter concerning over ranking on to Parker St in Cambridge from the rank on Drummer St on 7<sup>th</sup> June 2019. A copy of the letter he was sent is at Appendix 4.
- 3.11 In summary Mr Tsakanikas has completed all parts of the application process satisfactorily and there are no outstanding issues from the inspection. Members must therefore determine whether the licence can be renewed.

## **4 LEGISLATIVE PROVISIONS**

- 4.1 Section 62 of The Local Government (Miscellaneous Provisions Act) 1976 provides that:

*(1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke, or (on application therefor under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:—*

*(a) any offence under, or non-compliance with, the provisions of this Part of this Act;*

*(b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;*

*(c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;*

*(ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;]* or

*(d) any other reasonable cause.*

*(1A) Subsection (1)(ca) does not apply if—*

*(a) in a case where the operator has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or*

*(b) in a case where the operator has been required to pay an immigration penalty—*

*(i) more than three years have elapsed since the date on which the penalty was imposed, and*

*(ii) the amount of the penalty has been paid in full.]*

*(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the operator notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal.*

*(3) Any operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court.*

## **5 POLICY**

- 5.1 Section 44.4 of the Cambridge City Council Hackney Carriage and Private Hire Licensing Policy provides that an application for a Private Hire Operator's licence shall be made on the specified application form, be accompanied by the appropriate fee and in accordance with the application procedure set out in Cambridge City Council's 'Hackney Carriage and Private Hire Handbook'. The Licensing Authority will then decide whether the applicant is a "fit and proper" person to hold an operator's licence.
- 5.2 A definition of what could constitute "fit and proper" is provided by Bingham LCJ in *McCool v Rushcliffe Borough Council* [1998] 3 All 889, QBD: "...those licensed to drive private hire vehicles are suitable to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers".
- 5.3 Appendix P of the 'Hackney Carriage and Private Hire Handbook' sets out the application procedure for those operators submitting a first renewal application. An operator will need to demonstrate they have been operating a private hire business for the full duration of the licence. An application for a renewal of a Private Hire Operator's Licence will be granted for either 1 or 5 years.
- 5.4 The Licensing Sub-Committee reserve the right to limit the duration of the licence and request a further review of the licence before any future renewal is granted. This handbook is available at:



<https://www.cambridge.gov.uk/media/6738/hackney-carriage-and-private-hire-handbook.pdf>.

- 5.5 The 'Councillor Handbook: Taxi and Private Hire Licensing' published by the Local Government Association contains advice on decision making by Licensing Sub-Committees. This handbook is available online at:

[https://www.local.gov.uk/sites/default/files/documents/10.9%20Council%20Handbook%20-%20Taxi%20and%20PHV%20Licensing\\_November\\_2017.pdf](https://www.local.gov.uk/sites/default/files/documents/10.9%20Council%20Handbook%20-%20Taxi%20and%20PHV%20Licensing_November_2017.pdf).

## **6. OPTIONS**

- 6.1 The Authority has a duty to ensure that a safe and secure 'taxi and private hire' service is available to the public.
- 6.2 Every case should be dealt with on its own merits and after consideration of any representations from the applicant and his referees the following options are available to the Sub-Committee;
1. Renew the operator's licence for one year;
  2. Renew the operator's licence for one year with additional conditions;
- or
3. Refuse the renewal application.

If Members choose options 2 then they must state the conditions to be added and give reasons for this decision.

If Members choose option 3 then they must be satisfied that Mr Tsakanikas has behaved in a manner that is not appropriate for a "fit and proper person" to hold an operator's licence and give their reasons.

Members are required to give their reasons for any decision reached.

6.3 Mr Tsakanikas has the right to appeal to the Magistrates Court against any decision taken by this Sub-Committee under Section 62(3) of the Act.

6.4 Members may give their decision at the hearing and, in any event, Mr Tsakanikas will be informed of the decision in writing as soon as possible. Any appeal must be lodged with the Magistrates Court within 21 days of receipt of the notification of the decision.

Should Members decide not to grant Mr Tsakanikas a licence then it should be noted that Mr Tsakanikas's details will be added to the NR3 National Anti-Fraud Network (NAFN) database. Information concerning such a refusal would then be available to other licensing authorities.

## **7. APPENDICES**

**Appendix 1 - Private Hire Operator Licence**

**Appendix 2 - Application Form**

**Appendix 3 - Copy of Mr Tsakanikas Points Declaration**

**Appendix 4 – Copy of warning letter sent 7<sup>th</sup> June 2019**

## **8. INSPECTION OF PAPERS**

To inspect the background papers or if you have a query on the report please contact:

Alexander Nix (Senior Technical Officer – Commercial & Licensing)

Tel: (01223) 457 725

[alex.nix@cambridge.gov.uk](mailto:alex.nix@cambridge.gov.uk)

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