

Minutes of a Meeting of the Regulatory Sub-Committee held in the Sedgemoor Room, Bridgwater House, King Square, Bridgwater, TA6 3AR, on Monday, 5 June 2023 at 10.00 am

Present:

Cllr Simon Carswell (Chair)

Cllr Hugh Davies

Cllr Marcus Kravis

1 Apologies for Absence - Agenda Item 1

There were no apologies for absence received.

2 Declarations of Interest - Agenda Item 2

There were no declarations of interest made by Members.

3 Procedure to be followed when considering Licensing of Hackney Carriage Private Hire Drivers, Vehicles, Operators and related enforcement - Agenda Item 3

The Regulatory Sub-Committee noted the procedure to be followed when considering Operator Licences. The Chair introduced the members of the Sub-Committee and the Officers present at the hearing.

The Chair confirmed that the Officer's report relating to the case, the procedure to be adopted during the hearing and the documents which the authority is required to provide under the Regulations had been received by all Parties in advance of the meeting.

4 Consideration of a Private Hire Operator Licence - Agenda Item 4

The Licensing Officer, Simon Guest introduced his report in respect to the consideration of the status of a Private Hire Operator Licence for Fairview Minibuses

Ltd, following the company being convicted in Bath Magistrates Court for taxi related offences.

During the presentation he summarised the course of events as follows:

- In October 2022 the Council were informed by the Police that they had stopped an unlicensed driver at Bristol Airport, in one of the Operator's licensed vehicles.
- Following this, the unlicensed driver contacted the Licensing Officer and explained she had been driving for the Operator for 4-6 weeks, undertaking a variety of work including airport runs and school transport journeys. During this time she was unknown to Somerset Council School Transport Team, did not appear to have a DBS criminal records check, and was not licensed as a Private Vehicle Hire driver. All of these were deemed serious breaches of public safety.
- The Police decided to undertake criminal proceedings against the Operator. This was on the understanding that the Council would refer the Operator Licence status to this Sub-Committee to decide whether any further action would be taken on the Operator licence.
- The Police took the matter to court on behalf of the Council. The matter was heard at Bath Magistrates Court on 24 April 2023 where the Operator was charged with the following offences:
 1. Proprietor of Private Hire Vehicle employing unlicensed driver.
 2. Operate a vehicle as a Private Hire Vehicle using an unlicensed driver.
 3. Permit the use of a Public Hire Vehicle without displaying plate.
- The Operator had not made any contact with the Council regarding this matter or to declare their convictions in the Magistrates Court.
- The Licensing Officer did confirm that in the last 9 years there had been no records of any significant complaints relating to the Operator or their drivers.

David King and Gemma King attended the Sub-Committee representing Fairview Minibuses Ltd and confirmed the following during their representation:

- They were a family run company working in the area for over 25 years. The impacts of lockdowns in recent years had led many taxi firms in the local area to close and the Operator had taken on extra work to cover contracts, whilst also experiencing difficulties in recruiting drivers.
- The driver was looking for short term work during a break from working at a local College. At the college the driver drove minibuses for students and had an existing DBS with the employer. They had no doubts over the public safety of the driver in question.
- On meeting the driver in September 2022, they started the DBS application process, and online tracking showed this was well underway, however was not finalised and issued until 13 November 2022.

- They accepted they should not have allowed the driver to work before finalisation of the DBS check, and obtaining the correct licences for the driver from the Council.
- They had not declared the offences to the Council because they understood the Police were keeping the Council informed.
- The roof sign had not been present and had not been questioned previously.
- The rear plate sign was missing from the vehicle following recent body work repairs.

During discussions the Operator confirmed they had since made changes to their booking procedures, to manage more efficiently the balance of bookings and drivers available. Directors met daily to discuss booking enquiries from the previous day, to allocate drivers before confirming bookings. All school transport contracts routes had one allocated regular driver. They were also ensuring there was a spare driver available each day from one of the four directors, in case of a driver being unavailable at short notice.

Members of the Regulatory Sub-Committee, the Legal Advisor and the Clerk, attending in an advisory capacity only, withdrew from the room to consider their decision in private session.

On reconvening, the Chair informed those present at the hearing of the decision of the Regulatory Sub-Committee:

DECISION

The Sub-Committee had been asked to consider the operator's licence held by Fairview Minibuses Ltd following their recent conviction for taxi related offences. In reaching its decision the Sub-Committee had considered the Council's Guidance and Statement of Policy, the Government's Taxi & Private Hire Vehicle Licensing Best Practice Guidance and current case law.

In licensing the taxi trade the Council had a legal duty to protect the public. As public trust and confidence in the overall safety and integrity of the private hire system was vital, the same standards were applied to operators as those applied to drivers.

In accordance with section 55 of the Local Government Miscellaneous Provisions Act 1976 the Council should not grant an application for a private hire operator's licence unless it was satisfied that the applicant was and remained a "fit and proper person" to hold such a licence.

RESOLVED

The Panel had considered the evidence against Fairview Minibuses Ltd (Fairview) following their conviction on 24 April 2023 for 3 offences in relation to their private hire operator's licence.

The Department for Transport statutory taxi and private hire standards states "Although private hire vehicle operators may not have direct contact with passengers, they were still entrusted to ensure that the vehicles and drivers used to carry passengers were appropriately licensed and so maintained the safety benefits of the driver licensing regime."

The offences of which Fairview were convicted were serious. Failing to ensure that their driver was properly licensed and driving before their DBS certificate was complete presented a significant risk to the public and risked the confidence and integrity of the licensing system.

There could be no excuse for such lapses by a well-established and reputable operator. In mitigation the company had stressed that this was an isolated incident arising out of a shortage of drivers and the ability of the company to fulfil their contracts.

Notwithstanding the remorse and mitigation put forward by Fairview the Sub-Committee could not ignore the risks that the company were running by their actions. It was accepted that no issues or complaints were received over the conduct of the unlicensed driver. However, it had to be accepted that she drove, unlicensed, on numerous occasions including school transport, hospital and airport runs, many of which involved vulnerable passengers. It was to her credit that as soon as she was made aware of her part in driving an unlicensed vehicle she ceased driving for them. Fortunately, whilst the actions of Fairview did not have any significant consequences, it could have been so much different.

In addition, it was concerning that contrary to the Council's policy, Fairview had failed to formally declare their conviction to the Council, instead relying upon the Police to make the disclosure.

The Sub-Committee accepted and acknowledged that Fairview have already been punished for these offences in the criminal court and that they had had an unblemished record for a significant number of years. The Government guidance made clear that "public safety was the paramount consideration in licensing the taxi regime." The Sub-committee accepted the company's remorse and that they had amended their policies and procedures and had learnt from their mistake, and that public safety was and remains at the forefront of their business.

It was the decision of the Sub-Committee that Fairview Minibuses Ltd were and remained a fit and proper person to hold an operator's licence. However, the Sub-committee would issue a formal warning as to the company's future conduct which would include an inspection of the company's records and procedures, and that any future breach of the Council's policy would result in a further appearance before this Sub-committee with their licence at risk.

(The meeting ended at 11.40 am)

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CHAIR