



## Licensing Committee

**Minutes** of a meeting of the **Licensing Committee** held in **Warren Room, Lewes House, 32 High Street, Lewes** on **13 November 2007** at **10:30** .

### **Present:**

Councillors J F Daly (Chair on election), R Robertson, I J White

### **In Attendance:**

**Officers Attending:**Mr R Harris, Senior Legal Assistant

Mr I P Kedge, Head of Environment and Health

Ms M Hawes, Assistant Hackney Carriage Licensing Officer

Mr D Feintuck, Committee Officer

**Applicant Attending:**The Applicant and a co-worker attended

	<b>Minutes</b>	<b>Action</b>
<b>1</b>	<b>Election of Chair of the Committee for this meeting</b> <u>Resolved</u>	
	1.1 That Councillor Daly be elected Chair for the meeting.	
<b>2</b>	<b>Urgent Item</b>	

## Resolved

**2.1** That additional correspondence dated 5 November 2007 from the Applicant to the Committee and previously circulated be considered, in accordance with Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency in order that the Sub-Committee can take its decisions based on the most recent information which is available.

### **3 Exclusion of the Public**

#### Resolved

**3.1** That the public be excluded from the meeting during the discussion of Agenda Item 6 as there are likely to be disclosures of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of Local Government Act 1972 (as amended).

### **4 Application for Exemption from Driving Standards Agency Taxi Test and Assessment**

The Chair explained the procedure to be followed to the Applicant.

The Sub-Committee considered Report No 214/07 the purpose of which was to consider a request from the Applicant to be granted exemption from the requirement for new Hackney Carriage and Private Hire Drivers to pass the Driving Standards Agency (DSA) Taxi Test and Assessment as a condition of grant of licence. The Head of Environment and Health stated that the purpose of the Council adopting the policy in July 2007 was to bring the safety of professional driving in line with national standards and best practice.

In October 2007 the Applicant had claimed the adoption of such conditions would cause difficulties for the company. The Head of Environment and Health, in consultation with the Lead Councillor for Environment and the Chair of the Licensing Committee, had agreed that the matter be dealt with at Sub-Committee rather than under

delegated powers. Licensing Officers did not seek to direct the Sub-Committee and officers recommended granting the exemption, refusing the exemption or allowing the exemption with conditions.

Issues to consider(Paragraph 4.5 of the Report) includedwhether:

- o the Company's concerns were justified;
- o their claims for different standards was reasonable;
- o granting an exemption or variation was fair and consistent for the rest of the Trade;
- o the interests, wellbeing and safety of the passengers using Mini Bus Travel Service Ltd were protected and maintained; and
- o any viable and equivalent protection/safety measures were available.

Risks identified (Paragraph 7 of the Report) were:

- o the Licensing Authority may be perceived as not treating all Private Hire Drivers equally if exemption was granted without an alternative to the DSA Test being applied;
- o the safety of the traveling public may be put at risk if an exemption was granted without an alternative to the DSA Test being applied; and
- o the Applicant may be restricted in its ability to carry out its contracts if the Licensing Authority did not grant an exemption.

In response to councillors' questions, theHead of Environment and Health stated there were no other companies within the district with the same form of practice. The Applicant provided a specialized operation with limited working hours and was a relatively large local employer. The need to maintain safety was

paramount. Any exemption granted must allow the possibility of equity for other companies.

In July 2007 there had been no alternative to the DSA Test; a test of equivalent standard might be acceptable. There were parallels between the DSA Test and the suggestion in the Applicant's letter of 5 November 2007 to the Committee of alternative testing to be conducted by a named DSA Advanced Driving Instructor. A key difference was that the work of the suggested named assessor, unlike that of DSA testers, would not be quality controlled, the onus for which would fall on the Licensing Authority. The DSA Test allowed drivers to apply for additional licences while the alternative testing restricted drivers to the company's business. The Head of Environment and Health assured councillors there would be no compromise of safety standards if the alternative testing regime was permitted.

The Applicant outlined the history of the company and its restricted work providing a limited hours dedicated service with additional social value. Recruitment for drivers to work only 15 hours per week, and subject to other statutory legislation, included interview and the company's own driving test. The Applicant cited an excellent safety record and had made no insurance claims in 16 years of operation.

It was suggested that the additional financial and time implications of adopting the DSA testing regime would have serious repercussions on driver recruitment and subsequently on the company's ability to tender for contracts. While the Applicant would prefer an unconditional exemption, the alternative testing regime suggested above would improve driver standards, cover all necessary safety aspects and provide direction towards extra driver guidance where necessary with less financial and time implications for prospective drivers.

In response to councillors' questions, the Applicant stated that there was no intention to move outside the restricted terms of the business. There was a turnover of perhaps 5-10 drivers per year. The named DSA Advanced Driving

Instructor was aware of the positive aspects of the DSA testing regime and had discussed the proposed alternative and her qualification to carry out that work with the Hackney Carriage Licensing Officer.

The Head of Environment and Health stated in conclusion that no other exemptions had been sought by other companies and suggested that the Sub-Committee took into account the perception by the trade of the granting of any exemption. He assured councillors that if any particular problem with regard to any exemption granted was in the future brought to the attention of the Licensing Authority, the matter could be returned to Committee if appropriate.

The Sub-Committee withdrew to consider the Application. The Applicant was invited back to hear the decision.

#### Resolved

**4.1** That an exemption from the Driving Standards Agency Taxi Test and Assessment for the Applicant be granted subject to the following conditions:

- (i) that the alternative testing process and procedure, as described in the Applicant's letter of 5 November 2007 to the Committee and to be conducted by the named DSA Advanced Driving Instructor, be implemented from 1 January 2008 to the satisfaction of the Licensing Authority; and
- (ii) that the maintenance of current standards and ongoing internal checks on employed drivers' skills be continued.

The meeting ended at **11:55** .

**J F Daly** Chair