

REGULATORY & APPEALS COMMITTEE

CHAIRMAN: Cllr Charlie Dennis

DATE: 1 October 2018

REPORT OF: Licensing Officer

SUBJECT: Request to licence an applicant that does not meet the age policy.

PART I

RECOMMENDATION

The Regulatory & Appeals Committee is recommended to resolve whether to grant or refuse this request.

1. PURPOSE

The Committee is asked to consider whether it should exercise its discretion to grant a Private Hire Driver's licence to a 19 year and 11 month old applicant. The Council's Hackney Carriage and Private Hire Policy (the Policy) stipulates that drivers are required to be over 21 years of age. Giving due consideration to GDPR the application and request will be distributed to committee at the hearing.

2. BACKGROUND

On 10th September the applicant made an application to the Council for a Private Hire driver's licence. On the application form he stated his date of birth as 17th October 1998.

The Council's Policy provides that in considering whether an applicant is a fit and proper person, the Council will consider a number of criteria, one of which is the age of applicants and drivers must be over 21.

During the 2009 review of the Policy the Hackney Carriage Licensing Officer advised the Committee that:

'Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states 'that a person must have been authorised to drive a motor car for at least 12 months before the date of application'.

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The Department for Transport's Best Practice Guidance on age limits suggests that minimum age limits, beyond statutory periods for holding a full driver licence, are not appropriate. Applicants should be assessed on their merits.

'Insurance for drivers under 25 years old is in the norm considerably more expensive. If an operator chooses to employ a driver that is under 21 they will have to take this into consideration when making their decision. In relation to age policy, it is necessary to consider if we are being discriminative with regard to a lower age limitation.'

The recommendation of the Hackney Carriage Licensing Officer was that the Council should remove the age restriction. However the Committee upheld this requirement after hearing representations in support from members of the trade. The Committee considered that it was in the interests of public safety to keep the age limit; drivers under 21 are less experienced and have a statistically higher accident rate.

3. LEGAL POSITION

'Local Government (Miscellaneous Provisions) Act 1976, s51 Licensing of drivers of private hire vehicles.'

- (1) *Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:*

Provided that a district council shall not grant a licence:-

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or*
 - (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised*
- (2) *A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.'*

If the applicant appealed, then the Court would consider the soundness of the Policy on the age restriction in the light of the Department for Transport's Guidance and other discrimination legislation. The Court may find that the Policy is unlawful.

4. OTHER MATTERS TO CONSIDER

The applicant has a clean driving licence that has been held for 2 years and 4 months.

The role of private hire driver is specific to the applicants place of work only and not for general purposes.

The Policy has not been revised since 2009.

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Drivers are now required to take a Hackney Carriage/Private hire drivers assessment to appraise their driving skills prior to being licensed.

The Council is required to regard to the Policy when carrying out its Hackney Carriage and Private Hire Licensing functions.

5. FINANCIAL IMPLICATIONS

The cost of defending the appeal if the application is refused and the applicant appeals to the Magistrates' Court.

6. OPTIONS

The Committee is asked to consider this matter and to determine whether to

- a) Grant the licence
- b) Refuse the licence
- c) Grant the licence with condition(s)

Hayley Carpenter
Licensing Officer
Environment, Health and Wellbeing

Wards affected	All
Contact for any more information	H Carpenter
Background Papers (For Part I reports only)	<i>Relevant legislation and Hackney Carriage and Private Hire Regulations</i> Hackney Carriage and Private Hire Licensing Policy
Key Decision	N
In Forward Plan	N
In O&S Work Programme	N
Community Impact Assessment attached:	N
Appendices attached:	