
Licensing and Regulatory Committee

17 November 2020

Report of the Assistant Director for Planning and Public Protection

Review of a Private Hire Operators Licence – Mohammed Iqbal t/a York Cars (52/2016)

Summary

1. The purpose of this report is to enable the Committee Members to review the private hire operator's licence held by Mr Mohammed Iqbal who trades as York Cars.
2. Under section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976, an operator's licence may be suspended or revoked 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) ... or
 - (d) any other reasonable cause.
3. This report and the supporting statements allege the following conduct which Members may consider renders Mr Iqbal unfit to hold an operator's licence:
 - a) Enabling drivers (licensed by another authority) that the council would not consider 'fit and proper' under the City of York Council's Taxi Licensing Policy to work as private hire drivers in York.
 - b) Blaming the council for its stance over Uber for the position, when this is not the case.
 - c) Operating '690 Taxis' and 'Street Cars' in York without an operator's licence.
 - d) False or misleading customer testimonials.

4. All of the above may give rise to concerns with regards to Mr Iqbal's honesty and integrity, going to the heart of the 'protection of the public' consideration which is the reason for licensing private hire operators. In turn, this may give Members a reasonable cause to believe that Mr Iqbal is not 'fit and proper' to hold a private hire operator's licence.
5. For the avoidance of any doubt, Mr Iqbal should not be considered 'unfit' purely on the basis that he has obtained an private hire operator's licence from Wolverhampton City Council and is subcontracting work to drivers and vehicles licensed by Wolverhampton. It is accepted that such a practice is lawful, and is a model operated by other firms. It is the motivation behind this and the other reasons summarised above that he may no longer be considered a fit and proper person to hold an operator's licence in York.
6. Members are being invited to consider this matter due to the level of public interest in that it concerns one of the city's largest operators. Furthermore, Members are encouraged to have involvement in potential revocation or suspension of the operator's licence under the Department of Transport's new 'Statutory Taxi & Private Hire Vehicle Standards'.

Recommendations

7. That Members review the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1976 as amended.

Reason: To uphold the councils own licensing policy and ensure the protection of the public who will be using the operators premises and the vehicles and the drivers arranged through them.

Background

8. The City of York Council's Taxi Licensing Policy (the Policy) was approved by the Council Executive and came into force on 26 January 2017, and has been subject to periodic amendments.
9. At paragraph 39.2 of the Policy, it states that the 'objective in licensing private hire operators is to ensure the protection of the public who will be using the operators premises and the vehicles and drivers arranged through them'.
10. The policy considerations in respect of drivers being 'fit and proper' are also important in this case. The Policy sets out how matters such as driving experience, how previous convictions etc. will be dealt with, as well as medical examinations. It also sets out that new applicants will be required to undertake a training course and pass a 'safeguarding and knowledge test'. The Policy was last amended in this respect on 26

September 2019 in order to ensure it was consistent with the requirements of the West Yorkshire Authorities with whom we work (as the City of York Council is part of the West Yorkshire Combined Transport Authority). However, for the purposes of this report there were no material changes to what was previously the case, other than to say that when the recommendations for the new test are fully incorporated, in line with the other authorities, it will become more challenging as potential drivers will need to pass each element individually. On this basis, the current test may be considered not to be as challenging as Members feel it ought to be.

11. The 'safeguarding and knowledge training and test' covers local knowledge (routes and key locations as well as the pedestrian zone), the regulatory framework (including licensing conditions), professional standards (customer care) safeguarding and equalities/disabilities. It states at paragraph 28.1 of the Policy, that 'A driver licence will not be issued without the applicant first passing these requirements'. The pass mark set for the test is 26 out of 30 (86.6%). It is understood that Wolverhampton expect driver applicant to undertake training and pass a test, which on their website is known as a 'knowledge test', with a pass mark of 75%. This training does not cover local knowledge such as routes. Furthermore, as new applicants for the York test find the route questions the most difficult, it means that applicants can afford to answer fewer customer care, safeguarding and equalities questions incorrectly. Our records show that currently around 50% of applicants who take our safeguarding and knowledge test pass at some stage.
12. On a number of occasions, including addressing Members of this Committee, Mr Iqbal and/or representatives of York Cars have raised issues with regards to York's training and test, advising that it is too hard and the pass mark should be reduced.
13. Mr Iqbal has been licensed by the City of York Council as a private hire operator since 20 October 2016. His current licence was issued on 29 April 2019 following a 'change of name' from 'York and Ebor Cars' to 'York Cars'. Our records show that there are 154 drivers and 134 vehicles licensed to work on behalf of York Cars . The licence is due to expire on 19 October 2021.
14. In or around early November 2019, 'York Cars', or more accurately '34 Cars Ltd', of which Mr Iqbal is the sole director, was licensed by Wolverhampton. Around the same time, he placed a job advertisement asking for Wolverhampton licensed drivers to drive in York, not Wolverhampton. The operator trading name approved by Wolverhampton is 'York Cars', the approved door signage is exactly the

same as the door signage approved by York, including a York telephone number.

15. Over the following months, officers began a dialogue with York Cars over a number of concerns. The associated witness statements detail the various concerns raised and the responses. The principle concerns relevant to this process are as follows:

Enabling drivers not considered by City of York Council to be ‘fit and proper’ to drive in York

16. Mr Iqbal obtained an operator’s licence in Wolverhampton with no intention of undertaking journeys there. This was designed to circumvent York’s local licensing controls and recruit those drivers who were unable to pass our safeguarding and knowledge test. Mr Iqbal’s operation sent (even sponsored) new applicants for driver licences, who they knew did not to have the requisite knowledge to pass the York tests, to Wolverhampton to obtain a licence, on the grounds that they would drive in York regardless. The test results of the drivers of concern are shown in the table below:

	Test date	Score
Driver 1	12.9.19	21/30 (fail)
	17.9.19	23/30 (fail)
	9.10.19	21/30 (fail)
Driver 2	7.11.17	14/30 (fail)
	17.4.19	21/30 (fail)
Driver 3	6.12.17	5/30 (fail)
	16.10.19	19/30 (fail)
Driver 4	7.11.17	21/30 (fail)
Driver 5	23.5.18	16/30 (fail)

17. Of the 11 drivers known to us to be working in York under a Wolverhampton licence, five of them had failed to pass our safeguarding and knowledge test.

Blaming the City of York Council for its stance over Uber as one of the reasons for his position, when it was not the case

18. The business publicly blames the Council for this scheme, stating amongst other things, that it is 'a protest' over the Council's perceived inaction over Uber and out of town licensed drivers working in York. However, this is not consistent with his representatives explanation for the scheme, namely that it is borne out of and justified by the business needs of York Cars who 'had difficulty recruiting enough drivers to meet the demand for taxis' and 'in an attempt to increase supply, which will improve service provision my client has no commercial alternative but to licence with another authority in the hope of being able to meet customer demand'. As well as being inconsistent with the position that Mr Iqbal and his colleagues have previously stated.

Operating' 690 Taxis and Street Cars without a licence

19. It is an offence to operate i.e. 'make provision for the invitation or acceptance of a booking' in a controlled district (such as the City of York) without an operator's licence under the requirements of the Local Government (Miscellaneous Provisions) Act 1976.
20. Mr Iqbal has 'operated' two other trading names '690 Taxis' and 'Street Cars' in York without an operator's licence. His operator's licence only permits him to trade under the name of York Cars. He was aware that a different trading name would require a new operator's licence due to the fact that in April 2019 as he changed his own licence from been in the name of 'York and Ebor Cars' to 'York Cars'. Furthermore, in relation to these specific websites he was informed by an officer that he had to obtain a licence or stop using the website. The steps he claims to have taken i.e. to ask the website host to take the websites down were ineffective as officers were able to take a journey using information obtained from both websites. He clearly did not undertake a simple check to ensure that the websites had been taken down and continued to reap the benefits of custom from them (it is not known how much).
21. The website domains were renewed in January 2020. It is an offence/contravention of the Act to make provision for the invitation or acceptance of bookings without an operator's licence and could in itself give Members cause to hold that Mr Iqbal is not fit to hold an operator's licence.

'False', or 'misleading' customer testimonials

22. The 'streetcars-taxis.co.uk' testimonials are either fake, from another operator or are genuine and demonstrate that Street Cars was unlawfully operating without a licence. Mr Iqbal is unable to confirm where any of those 'streetcars-taxis.co.uk' testimonials originate from, especially as he

keeps records of customer compliments, and Members may consider that these website testimonials potentially mislead customers and members of the public.

Other background - complaints

23. In early December the Council's Licensing team began receiving complaints about the Wolverhampton licensed vehicles operating in York working for York Cars. For the avoidance of doubt, many of the complaints received into the service are from other taxi drivers. However, we encourage drivers to complain to us and not take matters into their own hands, we do not consider the source of the complaint to make a concern any more or less valid. To assist the process, the table below is a summary of the complaints relating to Wolverhampton licensed vehicles. As City of York Officers are not authorised to take any action against vehicles and drivers licensed by Wolverhampton, and they will not provide names and addresses of drivers to enable officers to deal with enforced issues, for example parking matters, all complaints are forwarded to Wolverhampton taxi licensing service. It is for them to assess whether the complaint, in itself or in conjunction with others, affects their determination that the licensee remains a fit and proper person to hold a licence. Wolverhampton licensing do not update us with regards to any action taken.

Date	Concern	Source	Outcome
06/12/19	Parked in disabled bay at Racecourse	York HC driver	Sent to Wolverhampton
17/12/19	Parked on Station rank	York HC driver	Sent to Wolverhampton
17/12/19	Reversing on dual carriageway	York PH driver	Sent to Wolverhampton
23/12/19	Parked all 4 wheels on pavement	York PH driver	Sent to Wolverhampton
15/01/20	Manner of driving	York HC driver	Sent to Wolverhampton
16/01/20	No local knowledge	Member of public	Sent to Wolverhampton
20/01/20	Running red light	York PH driver	Sent to Wolverhampton
06/02/20	Illegal parking at York Hospital	York HC driver	Sent to Wolverhampton
10/02/20	Possible illegal school run	York PH driver	Sent to Wolverhampton
21/02/20	Blocking Access	Member of public	Sent to Wolverhampton
02/03/20	Parked on St Sampson's rank	York HC driver	Sent to Wolverhampton
09/03/20	Dropped off passengers on rank at Station	York HC driver	Sent to Wolverhampton
02/04/20	Query why Wolverhampton vehicles are working in York	Member of public	Sent to Wolverhampton

27/04/20	Illegal turn	York HC vehicle	Sent to Wolverhampton
27/08/20	York Cars vehicles including Wolverhampton parking on roadside.	CYC Cllr	Liaised with Billy Iqbal

Consultation

24. There is no consultation associated with this report.

Options

25. Option 1 – Revoke the licence in accordance with section 62(1) of the Local Government Miscellaneous Provisions Act 1976

26. Option 2 – Suspend the licence in accordance with section 62(1) of the Local Government Miscellaneous Provisions Act 1976

27. Option 3 – Take no further action

Analysis

28. Option one – the licence holder has the right to appeal this decision to the Magistrates' Court, within 21 days. The decision to revoke does not take effect for 21 days, and if an appeal is lodged within that time, the period is extended until such time that the appeal is determined or abandoned.

29. A decision to revoke the licence will not prevent Mr Iqbal from continuing to use the operator's licence issued by Wolverhampton or drivers/vehicles licensed by them in York, unless Wolverhampton also determine that he is unfit to hold an operator's licence as a result of having a licence revoked in another authority area. It will however prevent him having an operators base in York. It will also mean that the drivers licensed by York who work for them will need to either:-

- i) obtain a licence for themselves and their vehicles from Wolverhampton or another area in which Mr Iqbal is licenced (if those licences are not also revoked),
- ii) switch to another York licensed operator, or
- iii) obtain their own operator's licence.

30. Option two – the licence will be withdrawn for such a period as the committee deems fit. 'Suspension' is a sanction in itself and is an alternative to 'revocation' of the licence. It is not permissible to suspend

a licence pending a decision to revoke. As with a decision to revoke the licence holder has the right to appeal this decision to the Magistrates' Court, within 21 days. A decision to suspend does not take effect for 21 days, and if an appeal is lodged within that time, the period is extended until such time that the appeal is determined or abandoned. After the period of suspension the status quo will be resumed. However, the impact on the York licensed drivers will be the same as 'revocation' for the period of suspension.

31. Option three – will retain the status quo.

Council Priorities

32. This determination supports the Council's priorities in respect of ensuring safe communities and culture for all.

Implications

33. **Financial:** Any decision carries the risk of an appeal through the court process and associated costs. It is very difficult to predict court costs, but they could conceivably run into tens of thousands of pounds depending on the number of hearings and if costs are ultimately awarded against the council in the event of a successful challenge.
34. **Human Resources:** There are no Human Resources implications associated with this report.
35. **Equalities:** There are equalities implications associated with this report. Taxi services are the method of transport used by passengers with a disability and York Cars have vehicles adapted for use by disabled passengers. There are however other taxi companies with such provision, and the analysis above shows how affected drivers could deal with the decision. The York knowledge test has a section on equalities and customer care in order to help us determine whether a driver is a fit and proper person to be licenced and it may be considered more challenging than the Wolverhampton test (but maybe still not as challenging as members would like).
36. **Legal:** Any decision of the committee may be appealed through the court process, beginning with a hearing in the Magistrates' Court.
37. Members should also take into consideration the Department of Transport's new 'Statutory Taxi & Private Hire Vehicle Standards' when considering whether a person is 'fit and proper' to hold a licence.
38. Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper'

person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question: Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. Licensing authorities have to make difficult decisions, however the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

- 39. **Crime and Disorder:** The crime and disorder implications relating have been outlined in this report where appropriate i.e. it is an offence to operate a private hire vehicles/drivers without an appropriate licence.
- 40. **Information Technology (IT):** There are no IT implications associated with this report.
- 41. **Other:** There are no other implications associated with this report.

Risk Management

- 42. This is a regulatory decision made on the facts, and it is not appropriate to apply the councils risk scoring matrix to this decision.

Contact Details

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**Report
Approved**



Date 04.11.20

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

City of Council Taxi Licensing Policy

<https://www.york.gov.uk/downloads/file/137/taxi-licensing-policy>

Department of Transport's new 'Statutory Taxi & Private Hire Vehicle Standards'

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

Annexes

Supporting statements and exhibits

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