



LICENSING AND REGULATORY PANEL

Meeting to be held in Civic Hall Leeds on
Tuesday, 5th January, 2010
at 10.00 am

MEMBERSHIP

Councillors

J Dunn

V Morgan

R D Feldman
(Chair)

G Wilkinson

C Townsley

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2		*6	<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATIONS OF INTEREST</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6		10.4(7)	<p>REFUSAL TO GRANT AN APPLICANT A CONTRACT ESCORT PERMIT TO CARRY OUT CONTRACT WORK FOR PASSENGER SERVICES (10.4(7))</p> <p>To consider the report of the Director of Legal, Licensing and Registration on an appeal against an officer decision to refuse to grant a Contract Escort Permit</p> <p>(Report attached)</p> <p>Please note that Appendices C and D of the report are marked exempt under Access to Information Rule 10.4 (7)</p>	3 - 12

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CONFIDENTIAL AND EXEMPT ITEMS

The reason for confidentiality or exemption is stated on the agenda and on each of the reports in terms of Access to Information Procedure Rules 9.2 or 10.4(1) to (7). The number or numbers stated in the agenda and reports correspond to the reasons for exemption / confidentiality below:

9.0 Confidential information – requirement to exclude public access

9.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

9.2 Confidential information means

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order. Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

10.0 Exempt information – discretion to exclude public access

10.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below) the description of the exempt information giving rise to the exclusion of the public.
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Exempt information means information falling within the following categories (subject to any condition):

- 1 Information relating to any individual
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

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Not for Publication : Appendix C and Appendix D are exempt under the Provisions of Access to Information Procedure Rule 10.4 (7)

Report of the Director of Legal, Licensing & Registration

To the: Licensing and Regulatory Panel

Date: 5th January 2010

Subject: Refusal to grant an applicant a Contract Escort Permit to carry out contract work for Passenger Services

Electoral Wards Affected:

All

Specific Implications For:

Ethnic minorities

Women

Disabled people

EXECUTIVE SUMMARY

This report sets out the reasons why an application for a Contract Escort Permit to carry out contract work for Passenger services was refused.

1.0 Purpose Of This Report

1.1 To provide information and policy documents to enable Elected Members to hear an appeal against the decision of Officers to refuse an application for a Contract Escort Permit.

2.0 Background Information

2.1 A Contract Escort Permit is required by any person escorting adults or children carrying out contract work for Passenger Services.

2.2 The applicant applying for a Contract Escort Permit has to meet the following criteria:-

1. A medical
2. A Criminal Records Bureau Disclosure check (CRB)
3. PATS (Passenger Assistant Training Scheme)

2.3 The applicant must satisfy the Council that they are a 'fit and proper' person to hold such a permit.

3.0 Main Issues

3.1 The applicants returned CRB vetting disclosed 1 caution which Officers considered was in conflict with the criteria used to determine if an applicant is a 'fit and proper' person.

3.2 Attached at 'Appendix A' is a copy of the Taxi and Private Hire guidance booklet to which Officers refer.

3.3 Attached at 'Appendix B' is a copy of the Leeds City Council Tender document which states the criteria for an applicant applying for a Leeds City Council Contract Escort Permit.

3.4 Attached at 'Appendix C' is a copy of the CRB vetting disclosure (to be made available on the day of the hearing due to Data Protection procedures).

3.5 Attached at 'Appendix D' is a copy of the refusal letter, sent to the appellant dated 23 November 2009.

Appendix C - Points Criteria Tables

Table 1 - Dishonesty

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Dishonesty	Points are doubled if term of imprisonment served									
Theft	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft - Shoplifting	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft - Employee	Refused	Refused	Refused	5	5	4	3	2	1	0
Theft - From Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft - Dwelling	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Burglary & Theft - Non Dwelling	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft - Aggravated	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	0
Fraudulent Use	Refused	Refused	Refused	5	4	3	2	1	0	0
Handling	Refused	Refused	Refused	5	4	3	2	1	0	0
Receiving	Refused	Refused	Refused	5	4	3	2	1	0	0
Forgery	Refused	Refused	Refused	5	4	3	2	1	0	0
Conspiracy to Defraud	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Forged Instrument	Refused	Refused	Refused	5	4	3	2	1	0	0
Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
False Accounting	Refused	Refused	Refused	5	4	3	2	1	0	0
False Statement to Obtain Benefit	Refused	Refused	Refused	5	4	3	2	1	0	0
Going Equipped	Refused	Refused	Refused	5	4	3	2	1	0	0
Taking/Driving or Attempt to Steal Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Allow to be Carried in a Stolen Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Perverting Course of Justice	Refused	Refused	Refused	Refused	8	6	4	2	0	0

Table 2 - Drugs

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Drugs	Points are doubled if term of imprisonment served									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Possessing Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Producing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2

Table 3 – Violence

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Points are Doubled if Term of Imprisonment Served										
VIOLENCE										
Common Assault	Refused	Refused	Refused	5	4	3	2	1	0	0
Assault - Section 47	Refused	Refused	Refused	5	4	3	2	1	0	0
Grievous Bodily Harm - Section 20	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Grievous Bodily Harm - Section 18	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Assault Police	Refused	Refused	Refused	6	5	4	3	2	1	0
Affray	Refused	Refused	Refused	5	4	3	2	1	0	0
Riot	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Murder	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter or Culpable Homicide while Driving	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Using Threatening, Abusive Words or Behaviour	5	4	3	2	1	0	0	0	0	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Common Assault - Aggravated	Refused	Refused	Refused	6	5	4	3	2	1	0
Obstruction	Refused	Refused	Refused	3	2	1	0	0	0	0
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possess Offensive Weapon	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm with intent	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Criminal Damage	Refused	Refused	Refused	5	4	3	2	1	0	0
Violent Disorder	Refused	Refused	Refused	8	6	4	2	1	0	0
Resist Arrest	Refused	Refused	Refused	8	6	4	2	1	0	0
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused

Table 4 - Indecency

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Points are Doubled if Term of Imprisonment Served										
INDECENCY										
Indecent Exposure	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure to the Annoyance of Residents	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure with intent to insult a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Unlawful Sexual Intercourse	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Importuning	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Gross Indecency with a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Gross Indecency with a Male	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent Assault on a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Indecent Assault on a Child Under 16 yrs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Living Off Immoral Earnings	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Prostitution	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Possessing or Distributing Obscene Material	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Buggery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Rape	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent or Nuisance Telephone Calls	Refused	Refused	Refused	Refused	Refused	5	4	3	2	1

Contract. Training can be obtained through the Services Department, Fleet Services, 225a York Road, Leeds LS9 7QQ (Telephone 0113 2143175). A fee will be payable as the schedule shown in Appendix A.

- 3.3.4 All Drivers must complete a CRB form and must declare any conviction(s) which are not spent under the Rehabilitation of Offenders Act 1974.
- 3.3.5 Random CRB checks will be carried out annually.
- 3.3.6 Those Drivers who hold a Leeds City Council Hackney Carriage or Private Hire driving licence or hold a P.C.V. driving licence, or equivalent LGV licence will not be required to undertake a driving test.
- 3.3.7 **IT IS THE CONTRACTORS RESPONSIBILITY TO ENSURE THAT THEIR DRIVERS ARE FULLY COMPETENT IN THE USE OF SPECIAL EQUIPMENT PRIOR TO UNDERTAKING THE TESTS.**
- 3.3.8 All Drivers must undergo a medical examination, at their own expense, at any medical centre of their choice. The medical form used must be obtained from the Taxi & Private Hire Licensing Section and completed by the Doctor undertaking the examination. Those Drivers who are Leeds City Council Licensed Hackney Carriage or Private Hire or hold a P.C.V. driving licence or equivalent LGV licence have already fulfilled this permit condition.
- 3.3.9 All Drivers must produce their current driving licence, 3 passport type of photographs, completed medical form stamped by the medical centre, a CRB form to Taxi & Private Hire Licensing and a MIDAS certificate where appropriate. The CRB form to be completed on application at Taxi & Private Hire Licensing. **(This applies to P.C.V./L.G.V. drivers apart from the medical requirements but not to current badged drivers, or Leeds City Council Licensed Hackney Carriage or Private Hire Drivers).**
- 3.3.10 Current Contractor Driver badges must be renewed before Taxi & Private Hire Licensing's last working day of the month of expiry of the permit.
- 3.3.11 Badge - Non PCV Minibus Drivers (Exempted Drivers only)

All Drivers are required to obtain from the Taxi & Private Hire Licensing Section at 225 York Road Leeds LS9 7RY, a Driver permit application form unless they have a current Driver badge or are Licensed Hackney Carriage or Private Hire. This exemption for Licensed Hackney Carriage or Private Hire drivers only applies to those Hackney Carriage or Private Hire Drivers who are licensed by Leeds City Council. Drivers who hold Hackney Carriages or Private Hire licenses from other districts, will be required to obtain a Driver badge.

3.4 Escorts

- 3.4.1 The Contractor may be required to provide an Escort in connection with any Order issued under the Contract. All Escorts used in connection with the Contract will be required to obtain a badge from the Council. The Contractor can obtain Escort Badge Application Forms from the Taxi & Private Hire Licensing Section at 225

...charges to be paid by the Contractor. A minimum age limit of 18 years will apply.

- 3.4.2 All new Escorts must obtain a "PATS" Training Certificate from an accredited "PATS" training agency in accordance with sub-clause 8.1.3 of the Conditions of Contract. Training can be obtained through the Council by contacting The City Services Department, Fleet Services, 225a York Road, Leeds LS9 7QQ (0113 2477310). A fee will be payable as the Schedule shown in Appendix A. If the Escort fails this test they will only be allowed to take the test on two further occasions. If the Escort has failed the test on three separate occasions the Escort badge will not be issued to that applicant.
- 3.4.3 All Escorts will be required to complete a CRB form. The applicant must declare any convictions or cautions even if they are spent under the Rehabilitation of Offenders Act 1974.
- 3.4.4 Random CRB checks will be carried out annually.
- 3.4.5 All Escorts must undergo a medical examination, at their own expense, at any medical centre of their choice. The medical form used must be obtained from the Taxi & Private Hire Licensing Section and completed by the Doctor undertaking the examination.
- 3.4.6 If there is reason for concern regarding an Escort's ability to carry out their duties under the Contract the Council shall have the right to refer the Escort to the Authority's Health Advisor. The cost to be borne by the Contractor.
- 3.4.7 All Contractors will be required to provide to the Taxi & Private Hire Licensing Section a current form of identification (i.e. passport, driving licence etc), 3 passport type photographs, a completed medical form stamped by the medical centre, a CRB form a PATS certificate and the Escort Application Form for each Escort. The CRB form to be completed on application at Taxi & Private Hire Licensing.
- 3.4.8 Escort badges must be renewed every 12 months.
- 3.4.9 Escorts will not begin employment until all of the above have been successfully compiled.

4.0 COMPLAINTS AND CONVICTIONS

4.1 Complaints Procedure Against Contract Driver

- i) All complaints made against a Driver shall be fully investigated by an Authorised officer who may suspend any Licence pending the complaint being reported to the Licensing Regulatory Panel (or other body responsible for licensing matters) who shall have the authority to continue the suspension or revoke the Licence if they consider it necessary after interviewing the Driver.

4.2 Report of Conviction(s) During The Contract

- i) Any conviction of a Contractor, Driver or Escort which may occur throughout the Contract Period must be reported forthwith to the Taxi & Private Hire Licensing Section of Leeds City Council. This also includes any conviction(s) of any partner(s).
- ii) The Taxi & Private Hire Licensing Section may after hearing the conviction(s) decide to suspend any Licence pending the conviction(s) being reported to the Council's Licensing Regulatory Panel (or other body of the Council) responsible for licensing matters) who may require the Contractor or any Driver or Escort to attend for interview. The Licensing Regulatory Panel (or other body) shall have the authority after hearing the conviction(s) to revoke, suspend or curtail any Licence of the Contractor Driver or Escort in this instance.

4.3 Performance Index

Any complaints upheld by Council Officers against Contractors, Drivers, Escorts and Vehicles will be taken into consideration when calculating the Contractor's 'Performance Index'. For details of this calculation see Appendix A of the Conditions of Contract.

5.0 **SUSPENSION AND WITHDRAWAL OF LICENCES/PERMITS/BADGES**

- 5.1 The Taxi & Private Hire Licensing Section shall have the power where it deems necessary to suspend or withdraw Licences, Permits or Badges.

6.0 **CHARGES**

- 6.1 Charges will be made for all permits and training carried out by the Council. A schedule of these charges can be found in Appendix A.
- 6.2 These rates will be reviewed annually at the commencement of the Contract and Contractors will be notified accordingly.

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