

Licensing and Regulatory Sub- Committee



Forest Heath
District Council

Title:	Agenda
Date:	Monday 22 May 2017
Time:	<u>1.30pm</u> – Briefing for the Members of the Sub-Committee to be held in the Members’ Room <u>2.00pm</u> – Hearing Commences
Venue:	Council Chamber District Offices College Heath Road Mildenhall
Full Members (3):	Brian Harvey Carol Lynch Nigel Roman
The membership of this Sub-Committee is drawn from Members of the full Licensing and Regulatory Committee and needs not to be politically balanced.	
Substitutes:	Named substitutes are not appointed
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
Quorum:	Two Members
Committee administrator:	Helen Hardinge Democratic Services Officer Tel: 01638 719363 Email: helen.hardinge@westsuffolk.gov.uk

LICENSING ACT 2003 – HEARING PROCEDURE

Pre-Hearing Matters

1. Declaration of Interests
2. Chairman will introduce members of the Hearing Panel
3. Chairman will ask those present to introduce themselves in the following order:
 - Applicant and any person representing or assisting them (Confirmation also should be given that copies of the relevant representations to be considered at the Hearing have been received);
 - The Officer of the Licensing Authority, the Committee Administrator and the Legal Advisor to the Hearing Panel;
 - Responsible authorities that have made a relevant representation;
 - Interested parties who have made a relevant representation (Interested parties should confirm whether a spokesperson has been nominated and, if so identify them);
 - In the event of a review hearing, the respondent.
4. The Chairman will ask all parties to the Hearing whether they wish to withdraw their application or representation.
5. The Chairman will ask the Officer of the Licensing Authority to report:
 - Any requests from a party to the Hearing for permission for a witness to appear in support of their representation. Any such requests will be determined by the Hearing Panel.
 - Any documentary or other information that a party to the Hearing wishes to present. If there is any such material, the Chairman will ask all the other parties to the Hearing whether they consent to it being presented. If they agree, the material will be distributed. If not, the said material may not be distributed unless there are exceptional circumstances which in the Chairman's opinion render it necessary and appropriate for the said material to be presented to the Hearing Panel. In this regard the Chairman's decision will be final.
6. The Chairman will invite the applicant or his representative to estimate the time required to present their case and ask questions of other parties to the Hearing. He will then ask the other parties to the Hearing whether they will require a longer period to present their representation and question the applicant. The Hearing Panel will determine the maximum period of time allowed for each party to put their case. This decision will be final.

THE HEARING

Immediately the pre-Hearing matters have been dealt with the Hearing will commence.

1. The Chairman will ask the Officer of the Licensing Authority to summarise the matter under consideration.
2. The members of the Hearing Panel, the applicant, and those making representations may ask questions of the Officer of the Licensing Authority.
3. Starting with the applicant and, in the event of a review, concluding with the respondent, each party will exercise their rights within the identified maximum time, as follows:
 - Each party to present their case, including responding to any points of which the Licensing Authority has previously given notice, and call any approved witness or witnesses in support of their case.
 - If given permission by the Chairman, and only through the Chairman of the Hearing, each member of Sub Committee, office of the Licensing Authority or any party may raise questions of any other party or witness/witnesses.
4. Starting with the applicant and, in the event of a review hearing, concluding with the respondent, each party will be asked to sum up their case.
5. All those present, other than the members of the Hearing Panel, their Legal Advisor and the Committee Administrator, will be asked to leave the meeting to allow Members to determine the application.
6. All parties will be recalled. The Legal Advisor to the Hearing Panel will advise those present of any advice that has been provided during the determination. The Chairman will then:
 - either announce the decision, together with the reasons for it if it is a Hearing in relation to an application for which the Licensing Authority may make its determination at the conclusion of the Hearing; OR
 - advise all the parties that the Licensing Authority will make its determination within 5 working days, in which case notification of the determination will be sent out in writing (including the rights of appeal) to all relevant parties not later than 5 working days after the Hearing date.

7. In the event of the Licensing Authority making its determination at the conclusion of the Hearing the Chairman will outline the rights of appeal. The decision and rights of appeal will also be confirmed in writing by the Officer of the Licensing Authority forthwith.
 8. Nothing within paragraph 6 above will preclude a Licensing Authority from making its determination at the conclusion of any Hearing, should the Hearing Panel so decide. It is entirely within the discretion of the Members of the said Panel whose decision in this regard will be final.
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Agenda

Procedural Matters

Part 1 – Public

- 1. Apologies for Absence**
 - 2. Substitutes**
 - 3. Election of Chairman**
 - 4. Application for the Exemption from Restrictions on Advertising in Hackney Carriage and Private Hire Handbook (Driving Miss Daisy, Newmarket) 1 - 22**
- Report No: **LSC/FH/17/001**

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Licensing and Regulatory Sub-Committee



Forest Heath
District Council

Title of Report:	Application for the Exemption from Restrictions on Advertising in Hackney Carriage and Private Hire Handbook	
Report No:	LSC/FH/17/001	
Report to and date/s:	Licensing and Regulatory Sub-Committee	22 May 2017
Portfolio holder:	Councillor Lance Stanbury Portfolio Holder for Planning and Growth Tel: 07970 947704 Email: lance.stanbury@forest-heath.gov.uk	
Lead officer:	Graham Haygreen Licensing Enforcement Officer Tel: 01638 719369 Email: graham.haygreen@westsuffolk.gov.uk	
Purpose of report:	To determine an application for the exemption from the advertising restrictions within the Hackney Carriage and Private Hire Handbook	
Recommendation:	It is recommended that the Sub-Committee: (1) Approve the application for exemption; or (2) Approve the application for exemption but impose conditions; or (3) Reject the application.	
Key Decision:	<i>Is this a Key Decision and, if so, under which definition?</i> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
Consultation:	See number 4 below	

Alternative option(s):		N/A – the Council is duty bound to determine the application	
Implications:			
Are there any financial implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any staffing implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any equality implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Any decision reached by the Sub Committee is subject to appeal by the applicant	Low	The Sub-Committee, should have regard to the Hackney Carriage and Private Hire Handbook, but may depart from these where reasons are given.	Low
Ward(s) affected:		All Wards	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		Hackney Carriage and Private Hire Handbook http://www.westsuffolk.gov.uk/Business/Regulation and Licensing/Licensing/Taxi licensing/upload/FHDC-Taxi-Handbook-April-2017.pdf	
Documents attached:		<i>(Please list any appendices.)</i> Appendix 1a and 1b – Email complaint Appendix 2 – Email from Team Leader Appendix 3 - Application for exemption Appendix 4 - Hackney Carriage and Private Hire Handbook – Advertisements – Signs - Notices Appendix 5 – Corporate Advertising Appendix 6a and 6b – Objections to application	

1. Key issues

- 1.1 On 10 April 2017 officers received a complaint regarding a breach of the advertising displayed on the vehicle WP14 YFD **Appendix 1.**
- 1.2 The applicant initially contacted the Authority on 22 June 2016 and was informed of the required and authorised Advertising on Private Hire Vehicles. An email from the Licensing Team Leader confirming the conditions regarding advertising is attached **Appendix 2.**
- 1.3 The applicant continued to display the corporate Driving Miss Daisy advertising on the vehicle.
- 1.4 The applicant was visited by a Licensing officer and an application for exemption was subsequently received. The application is for exemption from the Private Hire Vehicle Licence Conditions, point 9 Advertisements, page 17. **See Appendix 3.**
- 1.5 A copy of the current Hackney Carriage and Private Hire Handbook is attached as **Appendix 4.** The conditions regarding advertisement has changed for private hire vehicles. Rear doors will be required to display A4 stickers stating that they are pre-booked only.
- 1.6 The application is made on the grounds that the service is predominantly for a particular market to assist those with particular health needs. i.e. elderly, dementia, autistic etc. The service provided is a companionship service, rather than purely a private hire vehicle. However, payment is taken and therefore a private hire licence is required.
- 1.8 The design of the advertising (**Appendix 5**) was made specific to assist dementia suffering clients with visual perception issues. The franchise felt that the design and colours enable sufferers to easily recognise the vehicle and to offer comfort and reassurance. The advertising is of a corporate nature and adopted elsewhere within Authorities in the UK and worldwide.
- 1.7 Due to the breach of the conditions set out in the Handbook Officers believed it prudent to take the exemption application to the Licensing Sub- committee for a decision.
- 1.8 There are currently no processes in place for drivers to apply for advertising exemptions, but can be considered on a case by case basis.

2. Legal and Policy Implications

- 2.1 The current handbook states:

The vehicle shall be free from any signs or notices except as may be required by any statutory provision or required under these conditions. With this proviso advertisements' are permitted on the exterior of the vehicle. Front doors may carry the contact details of the proprietor. Rear doors may carry commercial advertising. A single product/service may be advertised at any one time. The advert must be suitable for a vehicle in public service and considered by the Council to be in-offensive. The advert shall be no larger than 30cm x 60cm.

- 2.2 Any diversion from the Handbook could result in others drivers undermining the terms of advertising specified with the Drivers Handbook.
- 2.3 A recent revision to the Drivers Handbook has been made where it requires all private hire vehicles to display a sticker on their rear passenger door stating "Advance Bookings Only. Not Pre-Booked – Not Insured." This could require drivers to re-assess their current advertising.

3. Representations

- 3.1 Objections to the advertising have been received from Des Murphy (Hackney Licence holder and Private Licence Operator) and Darren Daines (Lily Executive Cars) **Appendix 6.**

4. Legal and policy implications

- 4.1 The Sub-Committee may take any of the steps set out below:
 - a) Approve the application for exemption; or
 - b) Approve the application for exemption but impose conditions; or
 - c) Reject the application.

The applicant has 21 days to appeal to the Magistrates court.

Haygreen, Graham

From: Des Murphy <~~des@desmurphy.com~~>
Sent: 11 April 2017 16:54
To: Haygreen, Graham
Cc: Garnham, Amanda
Subject: HV009

Hi Graham,

Please see attached a clear picture of vehicle we spoke about yesterday. They have been delivering flyers in the Exning area this afternoon and as you can see it is still fully wrapped against FHD regulations.

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From: Garnham, Amanda
Sent: 22 June 2016 11:57
To: Driving Miss Daisy
Subject: Conditions for signage

Hi Bridget,

Please see a copy of the condition regarding the signage. Your signage is inoffensive but really should conform with the conditions, you could have a daisy on the rear passenger doors, contact details on the drivers and front door and boot door?

The contact social services use is a lady called Irene Noaks at Transport Services, Suffolk county council on 01473 264352.

Hope this all helps.

Kind regards

Amanda

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The Licensing Officer
 Customer Services - Licensing
 West Suffolk House
 Western Way
 Bury St Edmunds
 Suffolk
 IP33 3YU



Driving Miss Daisy Newmarket
 5, The Langtry Mews
 Gazeley Road
 Kentford
 Newmarket
 CB8 7QA

Dear Sir/Madam,

We are aware that a complaint has been filed, regarding our vehicle livery. We understood, from the newly amalgamated Forest Heath and St Edmundsbury authorities that we were compliant with regulations, but have now been made aware that this is not so, by your Licencing Enforcement Officer, Mr Graham Haygreen.

As a result of his visits to us and his understanding of what we are doing, I write to explain our business and to ask for dispensation regarding the livery and also to ask for a further dispensation regarding the display of the PHV plate on the back of the vehicle.

Driving Miss Daisy is an international company which was set up to provide safe and reliable companion driving services for the elderly, children, disabled and for anyone who is unable to drive. For more detail go to www.drivingmissdaisy.co.uk and the parent company in New Zealand www.drivingmissdaisy.co.nz

Our vehicle livery is used throughout the UK and is carefully guarded to make our brand recognisable. The colours have been chosen to help visual perception difficulties in people with dementia, who are a significant part of our customer base, (see attached document).

Driving Miss Daisy is not a taxi service. Our point of difference, from other transportation providers, is the companionship that we give with every journey and the social engagement we enable and make possible with our service.

We are a pre-booked only service, bookings being made through our 'Daisy Manager' cloud based, computer system. All advertising, whether national or local, refers potential customers to our national telephone number 0333 014 6211, although existing customers are given a local (mobile) number to call.

All new franchisees, including ourselves, are given a comprehensive training, prior to commencing in business and in addition the following courses are mandatory:

- 1/ Emergency Level 2 First Aid.
- 2/ Positive Handling
- 3/ Dementia Friends
- 4/ Care and Safeguarding of Vulnerable People

The recommended vehicles are chosen for their suitability for our typical clients. Elderly people need to be able to get into and out of the car easily. Our Skoda Roomster was the favourite of the New Zealanders, because of the wide opening doors and the proximity and height of the seat to the side of the vehicle. Unfortunately, Skoda no longer make the Roomster, so DMD UK has chosen the Citroen Berlingo / Peugeot Partner, which also can be easily converted to a WAV.

The company also suggests that we have leather seats and our car has been so equipped – in case of ‘accidents’!

Typically, we would make a visit to a prospective service user, in order to meet with them and better assess their situation. We can then fill in our Client Care Questionnaire (sample attached), so that we can make sure that any future trips are catered for correctly.

To finish, here’s a few testimonials, from customers.....

"There for us...."

Driving ourselves in our own car is so normal for most families that we can find it hard to comprehend alternatives. Life circumstances can dictate sudden changes in family needs sometimes without due warning.

We suddenly found ourselves in an unable to drive situation. Life changed in the space of a 30-minute visit to the Optometrist.

We were at that time both physically and emotionally compromised facing a continuing number of specialist, clinical and hospital visits of indeterminate timing. Our daughter and son-in-law in London relieved us of our concerns over those major transport journeys by engaging Driving Miss Daisy to manage all that for us.

Driving Miss Daisy were “there for us” not only managing the drive time but also assisting us personally when we were both recovering from medical procedures and needing physical and emotional support.

In our experience over many engagements, Driving Miss Daisy is about service, quality, caring, detail, versatility, adaptability, consistency and reliability.

"Restored the joy of independence to his life."

We are really thankful for the service Driving Miss Daisy provides for our son, for whom transport has always been a major problem. Autistic in nature, there is a lot of anxiety that goes with travel – different routes home, different vehicles, add in different people and drivers (as with a usual taxi service), and the stress goes up exponentially!

However, he loves ‘Miss Daisy’. He looks forward to the days that he travels with you, and often googles photos of the blue car with a daisy on the door! Your calm and cheerful approach has changed everything, and even on the days where there has been stress, you have given him the gift of security, along with a lift home! It’s easy to say, you have changed our lives, but you really have. He has been dependent on us (or our long-suffering friends!) for transport up until now, which has limited our activities too.

You have offered him a reliable, dependable service, but above and beyond that, the personal touch and friendship you’ve given have restored the joy of independence to his life.

We are very, very grateful and love 'Miss Daisy' too!

and franchisees....

Gavin DMD Cheltenham

"Yesterday, I took a regular client and her adult daughter to a large second hand book shop for a browse, it was less than ¼ mile from their home but neither could walk easily, so it was a bit of an outing, it was only a short trip at the end of the day, it was only whilst I was helping the daughter into the shop that I discovered that it was the first time in four years that she had left the house and felt safe to do so. It's nice to make a difference."

Rach DMD Stockton & Middlesborough

"This morning I collected a gentleman to take him to his dominoes club.

But first there was music playing and we had a jive to Chattanooga choo-choo, which we then sang all the way to dominoes 🍷❤️🍷

He asked me 23 times when he would see me again and 23 times I told him And 23 times his eyes lit up with excitement at the thought of his beloved dominoes gathering.

Utterly priceless 🍷❤️"

Yours Sincerely

Michael & Bridgette Banham

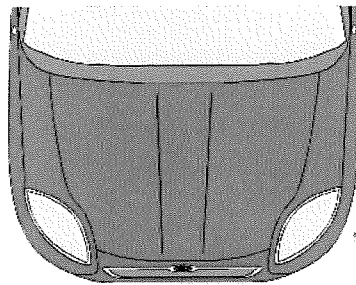
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9. Advertisements – Signs - Notices

The vehicle shall be free from any sign or notices except as may be required by any statutory provision or required by these conditions. With this proviso advertisements' are permitted on the exterior of the vehicle. Front doors may carry the contact details of the proprietor. Rear doors may carry commercial advertising. A single product/service may be advertised at any one time. The advert must be suitable for a 18 vehicle in public service and considered by the Council to be in-offensive. The advert shall be no larger than 30cm x 60cm.

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Please note some key areas to be aware of when positioning flower on back of car



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6a

From: Darren

Sent: 28 April 2017 14:36

To: Garnham, Amanda <amanda.garnham@westsuffolk.gov.uk>

Subject: Driving Miss Daisy

Hi Amanda.

I have been informed that you are considering giving the above private hire an exemption from the advertising restrictions.

I offer and have clients they I serve doing all the trips that they offer in their flyer, they have been leaflet dropping into the sheltered housing where I get a lot of my work from .

I have also been informed they will quote on airport transfers .

Sorry but that is a private hire company no arguments can be made to the contrary, this means they have to abide by the rules.

This is a formal objection to any exemption you may issue and I wish it to be mentioned when the hearing is conducted.

Darren Daines

Lily Executive Cars t/a West Suffolk Taxis

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6b

From: Des Murphy

Sent: 27 April 2017 10:45

To: Haygreen, Graham <graham.haygreen@westsuffolk.gov.uk>

Cc: Garnham, Amanda <amanda.garnham@westsuffolk.gov.uk>

Subject: Re: PV009

Dear Graham,

Further to my previous email, I'd like to place on record the objects of my colleges and I in the newmarket area about the possibility of Driving Miss Daisy being offered exemptions from the current adverting/logo regulations.

The Driving Miss Daisy leaflet states the following.

- Trips to the doctors, hospital, podiatrist, hairdresser, and any other appointments you may have.
- Shopping assistance as needed, especially helpful if there are several stops to make.
- Clients with special needs.
- Delivering children safely to/from school and activities.
- Taking pets to the vets.

In our opinion all of the above are things we would be expected to do in our roll as taxi drivers, they like us will receive payment for services supplied, so therefore, the same regulations regarding company logo and door signs should apply to all.

If Driving Miss Daisy are granted permission to retain the current branding I and several other operators, would like the same authority to brand my hackney carriage, with additional contact details on the back of the vehicle and larger company name on the back passenger doors.

I look forward to you're response regarding this situation.

Kind regards

Des Murphy

Cabline-taxis

01638 751999

www.cabline-taxis.co.uk

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