



REGISTRATION AND LICENSING COMMITTEE

10.00 AM - MONDAY, 9 OCTOBER 2017

PORT TALBOT CIVIC CENTRE - COMMITTEE ROOM 1/2

PART 1

1. To receive any declarations of interest from Members.

Report of the Head of Legal Services.

2. Hackney Carriage and Private Hire Vehicle Licensing - Refund (LM) *(Pages 3 - 6)*
3. Hackney Carriage and Private Hire Vehicle Licensing - Refund (SS) *(Pages 7 - 10)*
4. Hackney Carriage Vehicle Licensing *(Pages 11 - 18)*
5. Any urgent items at the discretion of the Chairman pursuant to Section 100B(4)(b) of the Local Government Act 1972.
6. Access to Meetings - to resolve to exclude the public for the following item pursuant to Section 100A (4) and (5) of the Local Government Act 1972 and Exempt Paragraph 12 of Schedule 12A to the above Act.

PART 2

Private Report of the Head of Legal Services

7. Equality Act 2010 - Hackney Carriage and Private Hire Driver Medical Exemption - Case 1 *(Pages 19 - 24)*

S.Phillips
Chief Executive

Civic Centre
Port Talbot

Tuesday, 3 October 2017

Committee Membership:

Chairman: Councillor S.Paddison

Vice Chairman: Councillor D.Whitelock

Members: Councillors A.P.H.Davies, J.Miller, D.M.Peters,
J.Warman, C.Edwards, M.Protheroe,
N.J.E.Davies, S.E.Freeguard, N.T.Hunt,
C.James, L.Jones, S.A.Knoyle and R.Mizen

c.c. Superintendent of Police, Neath
Chief Fire Officer, Neath

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Registration and Licensing Committee

9th October 2017

Report of the Head of Legal Services – David Michael

Matter for Decision

Wards Affected: All

Hackney Carriage and Private Hire Vehicle Licensing - Refund

Purpose of the Report

1. To consider a request for a refund following the surrender of a hackney carriage proprietor's licence.

Executive Summary

2. This report is to consider a request from Lee Morgan, for a part refund on the licence fee he paid for the renewal of his hackney carriage proprietors licence.
3. Mr Morgan renewed his licence on the 5th August 2017 and surrendered the licence on the 30th August 2017.
4. The total refund has been calculated at £184.12

Background

5. Taxi legislation allows the authority to recover the reasonable cost of issuing and administering the licence; it does not allow an authority to make a profit.
6. Mr Morgan has requested a part refund for any money owing.
7. A hackney carriage proprietor's licence is issued for 1 year.

Officer Report

8. The Licensing Section undertake a comprehensive annual review of all licensing fees, to ensure that the fee levels are set to only recover the costs of providing the licensing service, as permitted by legislation.
9. The fee to renew a hackney carriage proprietor's licence is £250 which Mr Morgan paid to renew his licence from the 5th August 2017; he subsequently surrendered the licence on the 30th August 2017.
10. The £250 licence renewal fee is broken down into various elements which include, processing the application, the cost of vehicle inspections, the ongoing cost of administration and compliance / enforcement and any costs associated with providing taxi ranks.
11. The refund amount does not include any of the elements above, where the authority has already provided that service e.g. the cost of processing the application, any vehicle inspections and the ongoing costs associated with every full month in which the licence was active; the costs incurred by the Council in processing the refund are also subtracted.
12. A total refund has therefore been calculated as £184.12p

Equality Impact Assessment

13. Not applicable

Legal Impacts

14. Not applicable

Risk Management

15. Not applicable

Consultation

16. Not applicable

Recommendation

17. That the refund be issued.

Reasons for Proposed Decision

18. To ensure that the authority do not make a profit from licensing fees.

Implementation of Decision

19. Immediate implementation

Appendices

20. Not applicable

List of Background Papers

21. Not applicable

Officer Contact

Neil Chapple
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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Registration and Licensing Committee

9th October 2017

Report of the Head of Legal Services – David Michael

Matter for Decision

Wards Affected: All

Hackney Carriage and Private Hire Vehicle Licensing - Refund

Purpose of the Report

1. To consider a request for a refund following the surrender of a hackney carriage proprietor's licence.

Executive Summary

2. This report is to consider a request from Shane Spencer, for a part refund on the licence fee he paid for the renewal of his hackney carriage proprietor's licence.
3. Mr Spencer renewed his licence on the 10th March 2017 and surrendered the licence on the 29th September 2017.
4. The total refund has been calculated at £76.16

Background

5. Taxi legislation allows the authority to recover the reasonable cost of issuing and administering the licence; it does not allow an authority to make a profit.
6. Mr Spencer has requested a part refund for any money owing.
7. A hackney carriage proprietor's licence is issued for 1 year.

Officer Report

8. The Licensing Section undertake a comprehensive annual review of all licensing fees, to ensure that the fee levels are set to only recover the costs of providing the licensing service, as permitted by legislation.
9. The fee to renew a hackney carriage proprietor's licence is £250 which Mr Spencer paid to renew his licence from the 10th March 2017; he subsequently surrendered the licence on the 29th September 2017.
10. The £250 licence renewal fee is broken down into various elements which include, processing the application, the cost of vehicle inspections, the ongoing cost of administration and compliance / enforcement and any costs associated with providing taxi ranks.
11. The refund amount does not include any of the elements above, where the authority has already provided that service e.g. the cost of processing the application, any vehicle inspections and the ongoing costs associated with every full month in which the licence was active; the costs incurred by the Council in processing the refund are also subtracted.
12. A total refund has therefore been calculated as £76.16p

Equality Impact Assessment

13. Not applicable

Legal Impacts

14. Not applicable

Risk Management

15. Not applicable

Consultation

16. Not applicable

Recommendation

17. That the refund be issued.

Reasons for Proposed Decision

18. To ensure that the authority do not make a profit from licensing fees.

Implementation of Decision

19. Immediate implementation

Appendices

20. Not applicable

List of Background Papers

21. Not applicable

Officer Contact

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Registration and Licensing Committee

9th October 2017

Report of the Head of Legal Services – David Michael

Matter for Information

Wards Affected: All

Hackney Carriage Vehicle Licensing

Purpose of the Report

1. To provide information to members in respect of an appeal against the decision to refuse to renew a hackney carriage proprietor's licence (vehicle licence).

Executive Summary

2. This report is to provide members with information in relation to an appeal to the Magistrates' Court against the decision to refuse to renew a hackney carriage proprietor's licence.
3. An application for the renewal of the proprietor's licence was made 52 days after the expiry of the licence and no exceptional reasons for the delay were provided by the applicant.
4. The Magistrates' Court determined however that the applicant did have exceptional reasons for not renewing the licence prior to expiry and ordered that the licence be renewed.
5. No costs were ordered.

Background

6. The Council's Taxi Licensing Policy (Paragraph 3.10 - Renewal of Licence), states that where an application for renewal is made after the licence expires, the Council will decide whether or not the licence can be renewed taking into account how long after the expiry of the licence the application was made and the reasons why the licence was not renewed prior to the expiry.
7. The Registration and Licensing Committee considered an application from Mr Thomas for the renewal of his hackney carriage proprietor's licence on the 28th April 2017.
8. The Registration and Licensing took into consideration the arguments in *Exeter City Council v. Sandle* [2011], a High Court ruling which determined that a licence could be renewed up to 3 days after it had expired where there is a good reason, but any further delay would require exceptional circumstances.
9. After hearing all submissions members determined that Mr Thomas had not provided exceptional reasons for the delay in renewing his licence and therefore members refused his application
10. A decision notice outlining the reasons for the refusal was sent to the Mr Thomas and is attached at appendix 1.

Officer Report

11. Mr Thomas appealed to the Magistrates' Court on the grounds that he did have exceptional reasons for not renewing the licence prior to expiry.
12. In making their decision the Court accepted Mr Thomas' evidence that he believed that his dad had taken steps to transfer the licence into his name and therefore the licence was transferred to his father and he had no further responsibility in respect of it.
13. The next question the Court considered was, whether this mistaken view amounted to exceptional circumstances. The Court found that because Mr Thomas believed that the licence had been transferred to his dad, this was the reason that he had not taken any action to renew the licence. He

had however made a prompt application for renewal when the circumstances of the transfer came to his attention.

14. Taking account of this the Magistrates considered that he had exceptional reasons for the delay in his application and as a consequence they granted his appeal.
15. The Magistrates made no order against the Council for costs.

Equality Impact Assessment

16. Not Applicable

Legal Impacts

17. It is considered that the Taxi Licensing Policy does not require any amendment following this decision.

Risk Management

18. Not applicable

Consultation

19. Not applicable

Recommendation

20. The Registration and Licensing Committee are being asked to note the report.

Reasons for Proposed Decision

21. Not applicable

Implementation of Decision

22. Not applicable

Appendices

23. Not applicable

List of Background Papers

24. Registration and Licensing Committee report 28th April 2017.
25. Neath Port Talbot CBC - Taxi Licensing Policy
26. Exeter City Council v. Sandle [2011]

Officer Contact

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

S60 Local Government (Miscellaneous Provisions) Act 1976

Notice of refusal to renew a Hackney Carriage Proprietors Licence

To: Mr Kerry Thomas, XXXX

On Friday 28 April 2017 Neath Port Talbot County Borough Council, the licensing authority for the said County Borough determined an application made by yourself to renew your Hackney Carriage Proprietors Licence (“your licence”). This related to a Skoda Superb vehicle, registration number XXXX licence number 502.

Your licence had previously been granted on 1st March 2016 for the period of one year, and the address you had supplied in respect of that licence was XXXX

In determining your application, the licensing authority considered a report presented by Mr Neil Chapple, Principal Licensing Officer and heard representations from yourself, and your father Mr Nicholas Thomas in support of your application. The representations you and your father made were:

1. You did not receive a letter from the licensing authority inviting you to renew the licence, as the letter had been sent to your previous address.
2. You had transferred your interest in the hackney carriage vehicle to your father and therefore assumed that the letter for renewal would be sent to your father at his address.
3. The vehicle was parked outside your father’s residence and he had not been using the vehicle due to family commitments.

In addition to these representations, the licensing authority took into account the following factors in making its decision.

1. Your Hackney Carriage Proprietors Licence expired on the 5th March 2017 as it was not renewed at or prior to that date

2. Your application to renew your licence was made on 26th April 2017, 52 days after the expiry of your licence.
3. A reminder had been sent to you on 3rd January 2017 by the licensing authority advising you that your licence was due to expire on the 5th March 2017.
4. A further letter was sent by the licensing authority to you on the 4th April 2017 to advise that your licence had not been renewed and had therefore expired

In accordance with Section 60(1)(c) Local Government (Miscellaneous Provisions) Act 1976 I hereby give you notice that your application to renew your licence has been refused on the following grounds.

- (i) That your renewal application was made nearly 2 months after your licence had expired and that you did not put forward any exceptional reasons for this delay.
- (ii) That despite indicating that you had transferred your licence to your father, there was no record of a transfer being received at the Licensing office. Additionally, your father was not in receipt of a licence in his name, which would have been issued by the licensing authority had a transfer request been received. Further, your father accepted that several months had passed without him receiving a transfer of your licence, but despite this no enquires were made of the authority regarding that transfer.
- (iii) You also accepted not checking with the licensing authority whether the transfer of your licence had been processed
- (iv) That although you own XXXX and owned it at the time the reminder letter was sent and the subsequent letter of 4th April 2017, you did not collect your mail from that address nor did you have any arrangements for the collection of your mail.
- (v) That the hackney carriage vehicle had a licence plate attached to the rear which clearly indicated the expiration date of the licence.

You have a right of appeal against this decision to Swansea Magistrates Court within 21 days of receiving this notice. The address for Swansea Magistrates Court is Grove Place, Swansea. If you are minded to appeal, please ensure the appeal is made to the court and not to this authority.

Date:

Time:

Signed:

(Licensing Manager)

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By virtue of paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972.

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