

Wood, Pat

From: Bates, Phil
Sent: 27 September 2016 11:10
To: Bates, Phil
Subject: Appendix 6 SHA response and reply from licensing

From: Bates, Phil
Sent: 01 February 2016 14:22
To: SHA
Subject: RE: Southampton Hackney Association's Response to your Fit & Proper Policy

Hi Ian,

Thank you for responding.

Happy to discuss in more detail but I want to give a brief reply to your response.

Treating HC and PH drivers differently to the rest of the driving public. I fully understand your point but as the licence is for the carriage of public at a charge there is a reasonable expectation of a higher standard of driving from HC and PH drivers. The test is about the driver being a fit and proper person so personal hardship is not a factor. This follows the principals of case law.

Each case will be determined on the merits of the case. For some time now the police only prosecute the more serious matters of careless driving and normally only when an injury results from the accident.

I note your comments on the scheme of delegation. To reassure you I do not investigate any more when it is clear suspension or revocation may be the outcome. That is all done by the enforcement officers, it then comes to me to make a decision, part of that decision process includes the subject responding in writing and seeing me. I may well investigate minor matters that may result in a warning but that is no different to the enforcement officers. So any decision is impartial, based on the evidence. If I do revoke I provide the subject with a written explanation of my decision. Personal views do not come into it and if they did it would be good grounds to appeal.

The offences listed are for first time offenders unless stated otherwise, it would normally be appropriate to escalate any sanction for repeat offenders, again each case on its merits.

Your suggestion to 'fine' the operator has no basis in law. I certainly do not have the power to do this. Each time a Private Hire Driver takes an illegal trip we look at the actions of the operator and ensure they are taking reasonable steps to prevent such actions by the drivers. Our action will always be proportionate to the degree of guilt shown by the evidence of the offender. The sanctions I have are advice, warning, suspension and revocation. Often the better way forward is to work with the operator to introduce work practices that reduce the incidents of breaches.

No doubt we will discuss this in more detail when we meet.

Phil Bates

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From: SHA
Sent: 01 February 2016 13:25
To: Bates, Phil
Cc: Ivory, Richard ; Letts, Simon (Cllr)
Subject: Southampton Hackney Association's Response to your Fit & Proper Policy

Phil,

Penalty Points

We are concerned as an organisation representing our members that the Council is looking to put in penalties for taxi drivers that are above those currently imposed by the law.

The current rules allow for a person to obtain up to 12 penalty points without losing their driving licence.

Indeed it is possible that in cases of exceptional hardship, more than 12 penalty points maybe applicable to an individual driving licence . It appears draconian that the Council have powers greater than that imposed by English Law in the event of the driver picking up penalty points. The disqualification for a further period should be removed to align with the current driving licence legislation. It seems entirely inappropriate that a driver who is allowed to drive has his licence suspended for a further period by the Local Authority, when legally there is no difficulty, insurance or otherwise, with them being back on the road.

Furthermore, an automatic disqualification for 12 penalty points does not allow a discretion for exceptional hardship, and this should be built into a review.

We are also concerned as a body concerning the possible suspension for 'careless driving' offences, again it appears entirely appropriate that in the case of minor accidents which can give rise to a charge of driving without due care and attention, the circumstances of the offences are looked into and examined before any form of decision with regard to potential suspension of the licence is reached. We as a body

consider that there must be the possibility for a hearing in front of the licensing officer to put forward special reasons as to why penalties seemingly upon the list should not be imposed on the individual driver as a fall back, we also do not see that any greater sanction should apply to a taxi driver that currently applies to their licence under English Law.

Turning to the question of the amendments to the regime, we and our members were concerned to find out on the 15th December 2015, the scheme of delegation, had changed to allow one licensing officer to be judge, jury and executioner in the event of a complaint levied to the Local Authority.

The fact that one person is responsible for gathering evidence, and determining an outcome is in a view against the principles of natural justice long enshrined under English Law, at the very least, we would suggest that if the matter is duly delegated, then the person gathering evidence or even collating the same cannot be the person who reaches a decision as to the outcome of any particular complaint.

We as a body would rather return to the system where there was a right to a hearing in front of the panel, and at the very least, we would hope that there would be an independent person

to sit and pass judgement. We are aware of occasions in the past where personal views have come into play, causing individuals to be repeatedly taken in front of panels, even though they have been exonerated. We would confirm that this has not applied to the current licensing regime, but whilst we have faith in things as they stand at the current time, this may not be the case in the future if those powers are granted.

We also note that it is intended to suspend a private hire driver for applying for hire or touting by a suspension for two weeks. We believe that this is appropriate for a first occasion, but should not apply to repeat offenders.

We consider that a repeat offender should get an incremental doubling of the ban on each occasion, should they be caught on three or more occasions then we consider that the operator of the private hire driver should also receive some form of penalty, be it financial or otherwise. On the occasion that a private hire driver has taken either a specific booking from a Hackney Carriage licence, or indeed generally, then the monies received by that private hire driver, should either be returned to the individual Hackney Carriage driver, or made payable into a general fund to be dealt with at a specific date in the future by way of a fine.

This we believe will act as an additional method to encourage those operators employing such drivers to properly regulate them and also ensure that where no profit whatsoever is made by the private hire individual, then that could be a remedy toward stopping future breaches.

Regards,

Ian Hall

CHAIRMAN

Southampton Hackney Association (SHA)

Southampton Hackney Taxi drivers in our City

www.southamptonhackneyassociation.co.uk