

WEST DUNBARTONSHIRE COUNCIL

Report by the Head of Legal, Democratic and Regulatory Services

Licensing Committee – 6 December 2011

Subject: Hearing regarding possible suspension of Taxi Driver's/Private Hire Car Driver Licences

1. Purpose

- 1.1** To consider the possible suspension of Taxi Driver/Private Hire Car Driver Licences held by Mr. Brian Rainey and Mr. John Neeson.

2. Background

- 2.1** On 17 June 2011 a complaint was received by telephone from Mr. Brian Rainey alleging that he had been physically assaulted by Mr. John Neeson at the taxi rank situated on Main Street, Alexandria.
- 2.2** Both Mr. Rainey and Mr. Neeson were written to on 21 June 2011 inviting them to attend at the Council Offices, Rosebery Place to discuss what had taken place.
- 2.3** Mr. Rainey was interviewed on 28 June 2011 by James McArthur (Licensing Officer) and Robert Mackie (Senior Officer, Licensing Services).
- 2.4** Mr. Neeson was subsequently interviewed accompanied by a representative, Mr. Stephen McEwan on 7 July 2011 by James McArthur, (Licensing Officer) and Robert Mackie, (Senior Officer, Licensing Services).
- 2.5** Having consulted with Mr. Andrew Fraser, Head of Legal, Democratic & Regulatory Services, it was decided that due to the nature of the complaint, a hearing should take place to consider the possible suspension of both Mr. Rainey and Mr. Neeson's taxi driver's licences.
- 2.6** Both Mr. Rainey and Mr. Neeson attended the Licensing Committee on 4 October 2011. Prior to the meeting 3 separate letters with 2 photographs attached were submitted by a representative of Dumbarton & Alexandria T.O.A. for consideration by the Committee in relation to Mr. Neeson. Members decided to continue the item to the next meeting of the Licensing Committee in order that Mr. Neeson could be made aware of the contents of the letters.
- 2.7** A summary of the complaint can be seen at Appendix 1.

3. Main Issues

- 3.1** A licensing authority may order the suspension of a licence if in its opinion the holder of the licence is not, or is no longer, a fit and proper person to hold the licence.

- 3.2** The period of suspension of a licence is the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix.
- 3.3** Where a licensing authority decides to order the suspension of a licence, the suspension generally does not take effect until the expiry of the time within which the holder of the licence may appeal against the suspension (28 days from the date of the decision to suspend) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the suspension. However, if the licensing authority determines that the circumstances of the case justify immediate suspension, it may order that the licence be suspended immediately.
- 3.4** A licensing authority must, before deciding to suspend a licence, give the holder of the licence, the complainer and the Chief Constable an opportunity of being heard.
- 3.5** Mr. Rainey, Mr. Neeson and a representative of the Police authority have been invited to attend the meeting of the Committee on 6 December 2011 in order that a hearing may take place with regard to the possible suspension of their respective licences.
- 3.6** In considering whether to suspend a licence the licensing authority may have regard to any misconduct on the part of the licence holder which in the opinion of the authority has a bearing on his fitness to hold a licence.
- 3.7** The matters which the Committee will require to consider are as follows:-
- (a) Whether the alleged misconduct has been established.
 - (b) If the Committee is satisfied that the alleged misconduct has been established, whether, having regard to the misconduct, either Mr. Rainey or Mr. Neeson are no longer fit and proper persons to hold a taxi driver's licence.
 - (c) If the Committee is of the opinion that either Mr. Rainey or Mr. Neeson is no longer a fit and proper person, the Committee must consider whether their respective licences should be suspended.
 - (d) If the Committee is satisfied that either licence should be suspended, the Committee must give Mr. Rainey and/or Mr. Neeson an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
 - (e) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify immediate suspension.

4. People Implication

4.1 There are no personnel issues.

5. Financial Implications

5.1 There are no financial implications.

6. Risk Analysis

6.1 There is no increased risk to the Council associated with the contents of this report.

7. Equalities, Health & Human Rights Impact Assessment Impact

7.1 No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

8. Strategic Assessment

There are no strategic implications.

9. Conclusions and Recommendations

9.1 That the Committee considers the terms of this report, the summary of the complaint at Appendix 1 and the terms of any evidence presented at the hearing and thereafter determines whether the licence should be suspended and, if so, the duration of the suspension and date of commencement thereof.

Head of Legal, Democratic and Regulatory Services

Date: 03/11/11

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Appendices: Report detailing incident involving Mr. Rainey and Mr. Neeson.

Background Papers:

1. Letter from Mr. Rainey dated 20 June 2011.
2. Letter to Mr. Rainey dated 21 June 2011

3. Letter to Mr. Neeson dated 21 June 2011.
4. Letter to Mr. Rainey dated 15 September 2011.
5. Letter to Mr. Neeson dated 15 September 2011.
6. Letter to Chief Constable dated 15 September 2011.
7. Letter to Mr. Rainey dated 15 November 2011.
8. Letter to Mr. Neeson dated 15 November 2011.
9. Letter to Chief Constable dated 15 November 2011.

Wards Affected: N/A.

Appendix 1

Report on an incident Involving Licensed Taxi Drivers John Neeson, Dumbarton Taxi Driver's Licence No. 215 & Brian Rainey, Dumbarton Taxi Driver's Licence No. 49

Background

On Friday 17 June 2011, an incident occurred at the public taxi rank situated on Main Street Alexandria, directly outside Alexandria Community Centre.

The above named taxi driver's were involved in this incident during which it is alleged both drivers exchanged verbal comments and each driver alleges he was assaulted by the other.

On 28 June 2011, a letter was received by the licensing section from Brian Rainey, alleging that he was assaulted by John Neeson during this incident. No written complaint has been received from John Neeson.

Taxi driver John Neeson is a driver for Wrights Taxi's, Alexandria, and Brian Rainey is a driver for Dumbarton & Alexandria TOA.

Enquiry has established that there is a history of bad feeling between John Neeson and the shareholders of Dumbarton & Alexandria TOA.

Brain Rainey is currently a shareholder of Dumbarton & Alexandria TOA and until approximately 18 months ago, John Neeson was a taxi driver with this company. John Neeson claims that he was dismissed from TOA at this time.

The incident in question was witnessed in part by Patricia Hosie, who until 1 July 2011, was employed by West Dunbartonshire Council as a caretaker at Alexandria Community Centre.

During the course of this report several 'taxi ranks' in the West Dunbartonshire Council area will be mentioned.

For clarity, the following should be noted:

The 'Vale Rank' referred to by the persons involved in this incident, is a designated taxi stance and is situated on Main Street Alexandria, outside Alexandria Community Centre. This stance can be used by any WDC licensed taxi.

The 'Morrison's Rank', the 'ASDA Rank', and 'Wrights Taxi Rank' are also referred to by persons involved in this incident. These locations are not designated taxi stances, and are therefore not recognised as such by WDC Licensing Section. These locations should be regarded as taxi pick up and drop off areas only.

Dumbarton & Alexandria TOA claim to have financed the installation of a 'free phone' in both of the aforementioned supermarkets and subsequently claim to have an

unwritten agreement with rival taxi companies that they have exclusive access to both supermarket pick up/drop-off areas.

Summary of Circumstances

On Friday 17 June 2011, both Brian Rainey and John Neeson were working as taxi drivers in the Dumbarton and Vale of Leven area.

On the same date, Patricia Hosie was working as a caretaker at Alexandria Community Centre as caretaker.

At about 10.00 am on that date Brian Rainey and John Neeson were at the designated taxi stance which is situated outside Alexandria community centre and is known locally as the 'vale rank'.

At this time Brian Rainey got out of his vehicle and approached John Neeson, who was sitting in the driver's seat of his vehicle.

Brian Rainey challenged John Neeson regarding his use of the 'Morrisons rank'. A verbal exchange between both drivers followed.

Brian Rainey states that he then walked away, and that as he did so, spat on the ground.

John Neeson alleges that Brian Rainey spat on him and not on the ground.

John Neeson then got out of his vehicle and approached Brian Rainey and put his forehead against Brian Rainey's head in an aggressive manner.

Brian Rainey raised both hands, put them on the chest of John Neeson, and pushed him away.

John Neeson then punched Brian Rainey on the face, in the area below his nose.

This was witnessed by Patricia Hosie who then separated both taxi drivers.

John Neeson then contacted the office manager at Wrights taxis (Stephen McEwan) who attended at the locus a short time later.

Brian Rainey contacted Mr Robert Mackie (Senior Officer Licensing WDC) who advised him to report the incident to the Police.

Following on from this incident, a number of taxis from Dumbarton & Alexandria TOA attended at the 'Wrights Rank' where they blocked the entrance / exit to this area, in an obvious effort to disrupt the business of Wrights Taxis.

The police were summoned and attended at this location.

The attending officers spoke to all the parties involved. No person has been charged or reported to the procurator fiscal as a result of this incident.

No person was injured or received medical attention, as a result of this incident.

Brian Rainey, John Neeson and Patricia Hosie have since been interviewed by WDC Licensing Section staff and a version of events has been noted from each of these persons as follows :

Brian Rainey attended WDC Licensing Team on 28/06/2011 and was interviewed by James McArthur and Robert Mackie.

He states that at the time in question he was at the 'vale rank', when he challenged John Neeson regarding his use of 'Morrisons rank'. John Neeson replied to him

'Fuck off ya prick ah've nothing to say to you or your brother'

Brian Rainey then said to John Neeson

'If you keep using the Morrisons rank and the ASDA rank we (TOA shareholders) will sit on your rank'

Meaning 'Wrights taxi rank'

John Neeson then replied

'I'll fuckin sit there if ah want, I'll even sit outside your office'

Rainey states that he then walked away and as he did so he spat on the ground. John Neeson then got out of his vehicle and approached Rainey and said

'Who the fuck are you spitting at?'

Rainey replied

'What are you talking about?'

Rainey further states that Neeson put his head against his. Neeson then took a step back and punched Rainey on the face just below his nose.

At that point Patricia Hosie appeared, separated both Rainey and Neeson telling them not to be so stupid.

Both Rainey and Neeson got back into their vehicles.

A short time later Stephen McEwan arrived. Neeson then got back out of his vehicle and began shouting at Rainey although he is unable to remember exactly what was said.

Rainey states that he later spoke to the police officers who attended the incident, but was told that no person would be charged.

Rainey confirms that he did not require medical attention as a result of this incident.

At the conclusion of the interview, Brian Rainey was informed that the circumstances would be reported to the head of legal services West Dunbartonshire Council for his consideration.

Patricia Hosie was interviewed on Friday 1/08/2011 at Vale of Leven Community Centre, by James McArthur.

She states that at the time in question she was walking from the side of the community centre to the front, when she saw both Brian Rainey and John Neeson who are both known to her. She could see that there was some sort of argument or dispute going on.

She saw Neeson put his head on to Rainey's head. She then saw Rainey put both hands up and push Neeson away. She then saw Neeson punch Rainey on the face.

At that point Patricia Hosie separated both taxi drivers and although they moved away from each other, they were still shouting at each other.

She then returned to the community centre, and a short time later she looked out of the window and saw Stephen McEwan talking to Neeson. She went back outside where Neeson was still shouting and bawling.

Neeson then told Patricia Hosie that Rainey had spat on him and Stephen McEwan had agreed with him.

Patricia Hosie states that there had been no mention of any spitting when she had initially intervened, and she challenged Stephen McEwan as to how he knew that Neeson had been spat on.

She further states that in her opinion Neeson was the more aggressive person involved as he was doing all the shouting and waving his arms.

John Neeson attended WDC Licensing Team on 7/07/2011 along with Stephen McEwan. He was interviewed by James McArthur and Robert Mackie.

He states that at the time in question he was sitting in his vehicle on the 'Vale rank' and was aware that Brian Rainey had joined the rank.

Rainey then approached his vehicle and spoke to him through the open window. He said

'Stay the fuck away from Morrisons or we'll be round sitting in your rank'

Neeson replied

'Get to fuck and leave me alone. I drive a taxi the same as you and I can sit where I like. If you want to sit on our rank, batter in and you'll find me outside your office as well'

Neeson further states that Rainey then spat at him through the open window of his vehicle, hitting him on the forehead and in the eye area.

Neeson then got out his vehicle and said to Rainey

'Ya dirty little bastard, who are you spitting on'

Rainey then lifted both hands and pushed Neeson away, and as he did so he said

'Fuck off ya wee prick, I'm going to have you'

Neeson states that at this point he felt threatened and threw a punch at Rainey.

At this point Patricia Hosie appeared and ushered both Neeson and Rainey back to their vehicles.

Neeson contacted Stephen McEwan who attended at the locus, before they both returned to Wrights Taxi office.

A short time later a number of TOA taxis arrived at the 'Wrights rank' and Neeson states he was threatened by several TOA drivers.

Neeson states he provided details of this incident to the attending police officers.

Neeson further states that he is regularly harassed and threatened by the shareholders and drivers of Dumbarton and Alexandria TOA and that this was not an isolated incident.

At the conclusion of the interview, John Neeson was informed that the circumstances would be reported to the Head of Legal Services West Dunbartonshire Council for his consideration.

Remarks

Assessment of the information contained in the statements of Brian Rainey and John Neeson shows that they both provide a very similar version of events, apart from the 'spitting incident', whereby Rainey alleges he spat on the ground and John Neeson alleges that Rainey spat on him.

Patrician Hosie confirms that both Rainey and Neeson were engaged in a verbal and physical confrontation, in a public place. She did not witness the alleged 'spitting incident'.

Three other taxi drivers were present at the locus when this incident occurred. All three have been contacted and are unwilling to provide any relevant information.

The standard conditions issued to licensed taxi drivers on the grant of a licence, state:

The driver of a taxi, while plying for hire or carrying a passenger, shall be clean and tidy in his person and adhere to the Dress Code for Taxi/Private Hire Car Drivers approved by West Dunbartonshire Council. The driver of a taxi shall conduct himself in a proper and civil manner and, whilst carrying a passenger, shall not smoke.

Based on the information provided by both Rainey and Neeson, and on the independent account provided by Patricia Hosie, it is clear that the conduct of both taxi drivers on this occasion, was unacceptable and in breach of the above standard condition.

There are no records of previous complaints having been lodged in respect of Brian Rainey or John Neeson.

In view of the foregoing, it is requested that this report be forwarded to Mr. Andrew Fraser, Head of Legal, Democratic and Regulatory Services, West Dunbartonshire Council, for consideration of the suspension of Brian Rainey's and John Neeson's Taxi Driver's Licence.

James McArthur
Licensing Officer
West Dunbartonshire Council