

The Highland Licensing Committee

Meeting – 7 October 2014

Agenda Item	13.2
Report No	HLC/069/14

Licensed Taxi Operator – Robert Tait (Ward 22 – Fort William & Ardnamurchan)

Report by the Legal Manager

Summary

This Report relates to a licensed taxi operator who has been reported for a breach of licence conditions.

This application is subject to a formal hearings procedure.

1.0 Background

1.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 a licence will be required for the operating of a licensed taxi. A licence for the same issued by the Highland Council is valid for the whole Council Area.

1.2 Mr Robert Tait is both a licensed taxi operator and licensed taxi driver with the Highland Council and currently holds the following licences:-

Taxi Driver's Licence: Expires – 19 July 2017

Taxi Operator's Licence: Taxi Plate 23025 – Expires – 7 March 2015

2.0 Highland Council Penalty Points System for Taxi and Private Hire Operators

2.1 Highland Council (Trading Standards) introduced a Penalty Points System on 1 July 2006 to assist in the assessment of the level of compliance shown by each Operator in relation to Conditions 1 and 2 of a Taxi Operator's Licence. When the points on an Operator's Licence reach 20 or more during a two year rolling period, the Operator becomes the subject of a report to the Licensing Committee.

2.2 On 16 September 2014 a report in relation to Mr Tait was received from the Council's Trading Standards Service who are responsible for the enforcement of the licensing scheme for taxi/private hire cars and their drivers. A copy of the report received from Trading Standards is attached. (Members are asked to note that some of the productions referred to in the Trading Standards Report have not been circulated but will be made available at the meeting).

This report has been submitted due to Mr Tait accruing a total of 35 points on Taxi Operator Licence No. 23025 and for failing to maintain his licensed taxi to the standards required by the Licensing Authority.

3.0 Process

3.1 A copy of the report and all attachments have been sent to both parties who, in terms of Paragraph 4(2) of the Civic Government (Scotland) Act 1982, have been invited to attend and will be provided with an opportunity to be heard by the Committee. A copy of the procedure which will be followed at the meeting has also been sent to both parties.

4.0 Consideration of action to be taken

4.1 In terms of Section 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 a Licensing Authority may suspend a licence(s) on the following grounds:

- (a) if in their opinion the holder of the licence is no longer a fit and proper person to hold the licence(s);
- (b) the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
- (c) a condition of the licence has been contravened.

4.2 If Members are not of a mind to suspend the licence, the Committee could require the operator to present his vehicle for inspection on a more frequent period than the current 6 or 12 months inspection regime eg. every 3 months. This would allow Trading Standards an opportunity to undertake more regular monitoring of the vehicle.

5.0 Policies and Conditions

5.1 The Standard Taxi Operator's licence conditions are relevant to this case and can be accessed via the following link:

http://www.highland.gov.uk/downloads/file/3516/taxi_operator_conditions_of_licence

In terms of Condition 1 of the Taxi Operator's licence conditions, "the holder of a Taxi Operator's licence shall ensure that the taxi, including all body work, upholstery and fittings, is maintained in a safe and serviceable condition and, subject to prevailing road conditions, is maintained in a clean condition and of smart appearance".

6.0. Recommendation

The Committee is invited to consider whether any action should be taken against the licence holder as outlined at paras 4.1 and 4.2 above.

Should the Committee be of a mind to suspend the licence(s), the Committee must specify a reason for the suspension in terms of paragraph 4.1 above.

Designation: A H Mackenzie, Legal Manager

Officer Reference: Julie Traynor

Date: 22 September 2014

Background Papers: Civic Government (Scotland) Act 1982

Highland Council's Taxi Operator Licence Conditions

Appendix 1: Trading Standards Report



Mr A H MacKenzie
Legal Manager
Corporate Governance Service
The Highland Council
Lochaber House
High Street
Fort William
PH33 6EL

Please ask
for: Liz Gardner
Direct Dial: 01463 228722
e-mail: elizabeth.gardner@highland.gov.uk

Your Ref:
Our Ref: EAG/RT/PP4/14
Date: 16th September 2014

Dear Mr MacKenzie

**Civic Government (Scotland) Act 1982
Report Concerning Mr Robert Gray Tait, Taxi Operator Licence Number 23 25**

Trading Standards, Development and Infrastructure Service, Highland Council wishes to submit a Report to the Licensing Committee stating that Mr Robert Tait, 19 Sutherland Avenue, Fort William, PH33 6JS has failed to maintain his licensed vehicle to the standard required by Highland Council contrary to Condition 1 of the Taxi Operator's Conditions of Licence.

Please find attached the Report, the redacted Report, Officers' statements and the Productions referred to in the Report.

Yours sincerely,

Elizabeth Gardner
Trading Standards Officer.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982
Penalty Points System for Licensed Taxi and Private Hire Car (PHC)
Operators and Drivers

Reference No. TS/CG(S)A/PP/4/14

Against: Robert Tait

Address:

Licences Held:

Taxi Driver's Licence reference number TD/2011/07/01, ID 23 126, expires on 19/07/2017

Taxi Operator's Licence reference number 23 25, expires on 07.03.2015

Plate Number 23 25: Vehicle Description: Vauxhall Vectra
 Registration Number: SD07 VFJ

Penalty Points Total as of 30th July 2014: 35 Points

REPORTING OFFICER: Elizabeth Anne Gardner
DESIGNATION: Trading Standards Officer
ADDRESS: Highland Council
TEC Services
Trading Standards
38 Harbour Road
Inverness
IV1 1UF
TELEPHONE NO: 01463 228700

It Is Reported That:

Mr Tait has failed to maintain his licensed taxi to the standard required by the Licensing Authority, Highland Council, contrary to Condition 1 of the Taxi Operator's Conditions of Licence, as demonstrated by the results of two vehicle inspections carried out by Highland Council's contractor and is therefore not a fit and proper person to hold a licence.

Background Information

The Penalty Points System was introduced on July 1st 2006. Its purpose is to assist Trading Standards in the evaluation of how well licensed operators are maintaining their vehicles.

Points accumulate when faults are discovered at the Council's inspection of the licensed vehicle or during "on the spot" inspections of the vehicle by Trading Standards staff. An appeal system is in place which allows an operator to question the allocation of points.

When the points total reaches 20 or more during a two year rolling period, the operator becomes the subject of a report to the Licensing Committee.

A Taxi and PHC Penalty Points Tariff which identifies possible faults and the points allocated to those faults, is included with this report. (**Production Number 1** Penalty Points Tariff).

Summary of Facts and Evidence

This report relates to the licensed vehicle operated by Robert Tait, licence number 23 25 which was first issued on 8th August 2012. A black Vauxhall Vectra, registration number SD07 VFJ, is the only vehicle which has been on the licence. *Redacted* This matter is reported because more than 20 Penalty Points have been accumulated within a two year rolling period.

The Highland Council

Trading Standards

Statement of Witness

Surname:	GARDNER	Maiden Name:	WILSON
Forename(s):	ELIZABETH ANNE		
Title:	MRS		
Address (H):	Tel No (H):		
Address (B):	Trading Standards, 38 Harbour Road, Inverness IV1 1UF	Tel No (B):	01463 228700
Place and Date of Birth:			
Occupation:	Trading Standards Officer		

‘Care of’ Address (e.g. students, etc.):

Known as or Alias:

Taken by: **On (Day, Date):**

At (Time):

At (Location):

States:-

I have been employed as a Trading Standards Officer enforcing the Civic Government (Scotland) Act 1982 as it applies to licensed taxis and PHCs and the Conditions of Licence for licensed operators and drivers for 17 years.

I spoke to ROBERT TAIT on the telephone on Thursday 7th July to advise him that the results of the last two Council inspections of his taxi had led to the accumulation of 35 points against his operator’s licence and that a report to the Licensing Committee was a possibility. I invited him to interview so that

Date:-

Signed:-

The Highland Council

Trading Standards

Statement of Witness

he would be able to demonstrate how his licensed vehicle was maintained and asked him to take with him any invoices he had which showed work being carried out on the vehicle or parts being bought.

I interviewed ROBERT TAIT at 11.00am on Tuesday 12th August 2014, in the presence of WITNESS HIDDLESTON, in Fulton House, Cameron Square, Fort William. I told TAIT that the accumulated points were as a result of a Council inspection on 30th January 2014 when three MOT failures had been identified and the result was a dangerous “Fail”

(**Production Number 2**, Taxi Test Report Form dated 30th January 2014)

and another Council inspection on 30th July 2014

(**Production Number 5**, Taxi Test report Form dated 30th July 2014)

when the three MOT failures listed were

- (1) both front springs broken,
- (2) both front anti roll bar links worn to excess
- (3) the nearside rear outer brake pad thin.

These resulted in another dangerous “Fail”. In addition two faults were identified in the Group B “Appearance and Utility” section.

TAIT’S response to the January Fail was that he had put his vehicle in for a pre-test to his mechanic who was an ex-AA man and he’d thought there was nothing wrong with the car. TAIT said he uses John Stewart in Inverlochty and when he’d checked the identified MOT failures after the Council inspection

Date:-

Signed:-

The Highland Council

Trading Standards

Statement of Witness

he'd thought they were all reasonable. And picking up on the headlight was just picky, the bulb had been put in upside down.

For the July test TAIT admitted the car should have been off the road. He shouldn't have put it in for the test. All the parts were on order but his mechanic couldn't fit him in. So TAIT did what he always does with his car, puts it in for an MOT, gets a fail and gets it fixed. He sources the parts himself and John (Stewart) just charges labour. TAIT said "That was me not thinking, the July one."

TAIT was unable to produce any invoices relating to work carried out on the car, he said it had never occurred to him that he might need to. He claimed that there were a lot of times when the car was in and out of the garage every month. He used Slipway Autos up till Christmas but he put his prices up and was too expensive so TAIT uses Heathercroft as well now.

TAIT acknowledged that he got at least four weeks' notice of a Council inspection and said that from now on the taxi will go for a pre-MOT at least three weeks before a test to get parts ordered. Every 5000 miles the taxi will be going into a garage to get checked. TAIT then produced two different check sheets he said he was intending to use from now on.

(Production Number 9, Check sheets intended for future use)

He also produced a list of work which had been carried out on his car up to April 2014 which he had created to show what had been done to the car

(Production Number 8, Schedule of Repairs, 2013-14).

Date:-

Signed:-

The Highland Council

Trading Standards

Statement of Witness

Surname: HIDDLESTON **Maiden Name:**

Forename(s): CHARLES STEWART

Title: MR

Address (H): **Tel No (H):**

Address (B): Trading Standards,
38 Harbour Road,
Inverness
IV1 1UF **Tel No (B):** **01463 228700**

Place and Date of Birth

Occupation: Assistant Trading Standards Officer

**'Care of' Address (e.g. students,
etc.):**

Known as or Alias:

Taken by: **On(Day, Date):**

At (Time):

At (Location):

States:-

I have been employed as an Assistant Trading Standards Officer, enforcing the Civic Government (Scotland) Act 1982 as it applies to licensed taxis and PHCs and the Conditions of Licence for licensed operators and drivers for 18 years.

Date:-

Signed:-

The Highland Council

Trading Standards

Statement of Witness

I was present when WITNESS GARDNER interviewed TAIT at Fulton House, Cameron Square, Fort William on Tuesday 12th August 2014. I can corroborate WITNESS GARDNER'S statement where it relates to that interview.

Date:-

Signed:-