

MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE Wednesday, 4 December 2019

MEMBERS PRESENT: Councillor Margaret France (Vice-Chair in the Chair), and Councillors Gordon France, Tom Gray and Laura Lennox

OFFICERS: Nathan Howson (Enforcement Team Leader (Licensing)), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Elizabeth Walsh (Solicitor) and Philippa Braithwaite (Democratic and Member Services Officer)

APOLOGIES: Councillor Steve Holgate

19.38 Declarations of Any Interests

There were no declarations of interests received.

19.39 Procedure

The Chair outlined the hearing procedure that would be used to conduct the meeting.

19.40 Exclusion of the Public and Press

RESOLVED – That the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

19.41 GLSC Report for taxi incident

The Director of Customer and Digital submitted a report for the General Licensing Sub-Committee to determine whether the Licence Holder remained a fit and proper person to hold a licence.

The Licence Holder and his legal representative were present at the Sub-Committee. The complainant was also present via a video link.

The Licensing Officer outlined his report and the circumstances of the complaint. He corrected a date included on one of the appendices and played a recording of the booking being taken. He reported that there had been changes over the course of the journey to the number of drop-off points and to the fare, and that although the Licence Holder believed all three passengers to be drunk there was evidence to suggest the complainant had been sober. The Licensing Officer also highlighted an “odd response”

made by the Licence Holder when he was interviewed under caution stating that he drives with “two hands on the steering wheel”. In response to questions from the Council’s Legal Officer, the Licensing Officer confirmed that it was in his opinion that the Licence Holder’s statement was an odd response.

In response to questions from the Licence Holder’s legal representative, the Licensing Officer confirmed that he had not had any contact with the complainant on the day of the incident and did not speak to her until a few days afterwards, and that, when interviewing under caution, some disclosure of the incident is made. With regards to other enquiries made, the Licensing Officer confirmed he had been in contact with the other passengers of that journey but had not contacted the other driver mentioned on the night of the journey.

The complainant requested that her statement be read out by the Enforcement Team Leader (Licensing) on her behalf. This statement was included in the agenda papers and was read out in full. In response to questions from the Sub-Committee the complainant confirmed that the first taxi had been turned away as her friend did not want to pay the quoted fare, even when the complainant offered to pay on her behalf. She advised that she wished she had moved to the back of the car after drop-offs had been made and, when asked if the driver’s behaviour could have been something else, stated that it had been sexual misconduct as “if it had been something else I wouldn’t have felt like that”.

In response to questions from the Council’s Legal Officer, the complainant advised she had been contacted by a police officer who told her that officers were looking into her complaint and that it had happened to two other people, and that she had passed this information on to Chorley Licensing Officers. The Council’s Legal Officer advised the Sub-Committee that Lancashire Police had been contacted and had confirmed that there were no past investigations or allegations of sexual misconduct concerning the Licence Holder. With regards to the complainant not wanting the driver to know her address and leaving the car early, the complainant stated she did not remember whether she gave her own address when making the booking. After some discussion, officers confirmed that although addresses had been redacted from the report, this had been given when the booking was first made.

The Licence Holder’s legal representative asked the complainant a series of questions regarding details of the journey, and in response the complainant confirmed that the first taxi had gone to the Cricket Club, who had also ordered it. The passengers had then walked to the Withy Arms pub where the Licence Holder had then picked them up. The complainant knew nothing of the private hire vehicle seen by the Licence Holder at the Withy Arms, which could have been an unrelated taxi.

It was noted that the other two passengers had been “considerably” inebriated. The complainant did not remember what she was originally quoted for the fare by the Licence Holder and stated that the price was never an issue for her but had been for her friend about the previous taxi. The complainant stated that she had no idea what the meter said when the Licence Holder turned it off, she just wanted to get home.

In response to further questions the complainant advised that she did not feel uneasy until after the first passenger was dropped off, but that she did not know what made her feel that way. She contacted her sister, who did not live nearby, but did not think to phone anyone closer or to contact the police. She confirmed that the time between the first and second drop-off was about 15 minutes.

With regards to the sexual misconduct, the complainant was very distressed when confirming the details. She advised that the Licence Holder used his right hand and had rubbed his crotch for 30 seconds to one minute. With regards to the final drop-off, the complainant confirmed that the Licence Holder had made a wrong turning but that she had said it was fine and got out of the car.

With regards to the allegations of previous investigations of sexual misconduct, the complainant stated it was a female officer who had contacted her but that she did not remember her name. The phone call had come a week or so after the complaint had been made and that police had said they would be in contact, so it wasn't 'out of the blue' as suggested. The complainant confirmed she made a statement to the police but was unsure whether she signed it.

The Licence Holder's legal representative asked a series of questions of the Licence Holder, who confirmed that everything he had said in the interview under caution with licensing officers was true. He recalled the details of the journey, the two passengers in the back of car were drunk and all three had been in the pub. The other car at the Withy Arms was from Miller Taxis, three women had ordered it and were quoted £22, but they hadn't taken it.

The Licence Holder confirmed there had been three drop-offs, and that the second drop-off had been about 3-4 minutes after the first. He stated that he did not do anything to make the passengers uncomfortable and that he had not rubbed his crotch. He was sure of this as he needed both hands to drive his car, with it being a manual. The Licence Holder advised that although the fare should have been higher, at £24, he took £20 as the original quote he'd given them was £16-£17. The fare had risen over the course of the journey as the number of drop-offs had increased from one to three.

The Licence Holder advised that he had been a private hire driver for about a year and had received no other complaints or been involved in any offences.

In response to questions from the Sub-Committee, the Licence Holder advised that the front passenger (the complainant) had seemed inebriated. When asked why someone would make an allegation like this the Licence Holder stated that he believed it could be racially motivated or that the passengers wanted to pay a lower fare.

In response to questions from the Council's Legal Officer, the Licence Holder refuted that the comment he had made to Licensing Officers in the interview under caution had been odd. With regards to the wrong turn made at the end of the journey, he advised that the two locations were very close.

The Enforcement Team Leader (Licensing) asked for some clarification over where the meter had been turned off and what it read at that point, as records showed the meter stopped at £20.20 in one location very close to the final drop-off. The Licence Holder advised that he was not allowed to give large discounts which was why he stopped the meter. In response to a question from the Licensing Officer regarding the other vehicle at the Withy Arms, the Licence Holder confirmed that the passengers had told him "that taxi just left nearly killed us", and that they had been quoted £22.

The complainant confirmed she did not want to sum up.

The Licence Holder's legal representative, in summary, ran through the events of the night, noting the increase in the quoted fare from increasing the number of drop-offs. He appreciated this was a distressing business but highlighted that there was little clarity over what had happened; the complainant had been unable to say why she had felt uncomfortable, and that 30 seconds to 1 minute was a long time. With regards to the comments concerning previous offences, he advised the Sub-Committee that the police were strictly bound by data protection laws and would only disclose such information in very specific circumstances as set out in law. In addition, it had been confirmed that no such previous offences had taken place. The Licence Holder's legal representative highlighted that no other complaints had been made against the Licence Holder.

The aim of the local authority of the taxi and private hire trades is to protect the public. Pursuant to Section 59 and 51 of the Local Government (Miscellaneous Provisions) Act 1976 a Local Authority should only grant a licence to drive a hackney carriage or a private hire driver vehicle provided that they are satisfied that the individual is a fit and proper to hold a licence.

As in line with our Safeguarding Policy, whilst there are no convictions to consider it is important to take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public. Members noted that the Licence Holder has not been convicted of a criminal offence, but that due weight can be given to the circumstances.

Members wanted to express that this was an extremely difficult matter to come before Committee. Members wanted to tell the Complainant how they appreciated her evidence today and given the circumstances how difficult it was for her to attend.

After hearing from both the Licence Holder and the complainant, Members felt that the Licence Holder was a fit and proper person to hold the licence and therefore Sub-Committee **RESOLVED to take no action.**

Chair

Date