

MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE **Wednesday, 22 August 2018**

MEMBERS PRESENT: Councillor Marion Lowe (Chair) and Councillors Doreen Dickinson, Gordon France, Sheila Long and Adrian Lowe

OFFICERS: Tracy Brozowski (Customer Services Manager (Enforcement)), Nathan Howson (Enforcement Team Leader (Licensing)), Carl Gore (Enforcement Officer (Licensing and Empty Properties)), Alex Jackson (Legal Services Team Leader), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)

17.LSC.1 Declarations of Any Interests

There were no declarations of interests received.

17.LSC.2 Procedure

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

17.LSC.3 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.

17.LSC.4 Review of a Private Hire Driver's Licence and Hackney Carriage Driver's Licence as per the Local Government (Miscellaneous Provisions) Act 1976

The Director of Customer and Digital submitted a report for the General Licensing Sub-Committee to determine whether a Licence Holder remained a fit and proper person to hold his Private Hire Driver's Licence (PHD) and Hackney Carriage Driver's Licence (HCD) following a complaint from a member of the public and failure to report a fixed penalty.

The Licence Holder attended the Sub-Committee alongside his representative.

The Licence Holder currently holds a Private Hire Driver Licence (PHD) and Hackney Carriage Driver Licence (HCD). On 23 May 2018 the Licence Holder was given a severe warning that the Sub-Committee instructed be placed on his driver's file in

relation to a serious incident involving the taxi whereby the Licence Holder drove off from the scene of an accident without stopping.

On 23 July 2018 Chorley Council received a complaint, via telephone call, regarding the manner in which a taxi had been driven. The complainant had been picked up from the Airport on 28 June 2018 with his family as arranged by a pre-paid booking. The complainant stated that during the journey from the airport the driver was swerving across all three motorway lanes as he appeared very tired and kept falling asleep at the wheel. The complainant asked that the driver come off the motorway at the Standish junction rather than Charnock Richard Services as the road speed was lower than 70mph. It was claimed that the driver was on the wrong side of the road on the motorway exit due to falling asleep again at the wheel. The driver allegedly fell asleep again later in the journey and mounted the pavement and on to the embankment at approximately 30mph on the corner of Clarence Street, Chorley.

The Licensing Officer subsequently investigated the complaint and was informed by an employee at the taxi company where the Licence Holder worked that the Licence Holder was the driver of the taxi subject to the complaint.

The Licensing Officer advised that the complainant worked away from home and therefore was unavailable to attend the hearing. Member's attention was drawn to appendix 15 which set out the complainant's statement.

On 23 July 2018 the Council also received an email from the Licence Holder stating that he had received three points on his licence on 13 July 2018 for speeding. The Licence Holder failed to comply with the condition on his PHD licence requiring him to notify the Council in writing of any conviction or caution recorded against him and/or the imposition of any endorsable or non-endorsable fixed penalty within seven days.

Members were made aware that it had not been possible to hold an interview with the Licence Holder as he had not been in the country in the prior weeks leading up to the Sub-Committee. Attempts had been made, as outlined in the report, to contact the Licence Holder without success. Following queries from the Legal Officer, it was confirmed by the Licensing Officer that he was satisfied based on his investigation that the Licence Holder was definitely the taxi driver subject of the complaint.

The Licence Holder's representative questioned why it had taken the complainant almost a month to submit his complaint to the Council and suggested motives of financial gain due to a personal injury claim. He advised that leaving it this long and not approaching the taxi firm sooner had meant that all the information on the vehicle at the time of the incident and any CCTV/dashcam footage was no longer available. It was stated by the Licence Holder's representative that the incident was not as serious as reported and that there had been some exaggerations in the complainant's statement.

The Licensing Officer was not able to comment on why the complaint had been submitted almost a month after the incident took place. Following queries, the Licence Holder's representative was informed that there had been no photographic evidence of the red seat belt marks left on the passengers as included in the complaint.

The Licence Holder explained that his vehicle did hit the curb during the journey due to avoiding an object in the road and not because he was falling asleep at the wheel. However, the Licence Holder rejected that the car went over the embankment. The

Sub-Committee was advised that the tyre had not gone flat as a result of hitting the curb and had it done so the Licence Holder would have struggled to get back to the passenger's home address from the location of the incident.

The Licence Holder circulated photographs of the condition of the curb/embankment at Clarence Street and a tyre on the vehicle claimed by the Licence Holder to have been involved in the incident. The Licence Holder conceded that the photographs had only been taken on either 20 or 21 August 2018. It was advised that the tyre was still being used.

The Licence Holder asserted that the children were asleep at the time of the incident, that they were not awoken by the vehicle hitting the curb and assured the Sub-Committee that all passengers appeared okay when he dropped them off.

The Licence Holder stated that he left the country at the end of July for a pre-planned holiday. It was understood that the Sub-Committee papers were delivered to his home address on 14 August 2018; however the Licence Holder was only able to have sight of these upon his return, three days before the Sub-Committee hearing.

The Licence Holder apologised for the delay in informing the Council of his speeding offence within the required seven day period. He admitted this was an oversight on his part and corrected the situation as soon as he realised.

Following Member queries the Licence Holder admitted to scraping the curb however denied swerving across the road. The Licence Holder also denied falling asleep at the wheel and advised that this journey had been his only job that day.

When asked about his usual route to the Airport, the Licence Holder advised he would usually take the Standish or Charnock Richard Services route, however due to temporary road works and motorway closures overnight travelling via Standish was the current route taken.

The Licence Holder could not confirm what the object in the road was due to it being dark and there being minimal street lighting but speculated it might have been a cat. The Licence Holder did not explain to the passengers at the time that there had been something in the road which resulted in him scraping the curb as he advised that they were almost all asleep. The Licence Holder reassured the Sub-Committee that he only continued with the journey as there was no damage to the vehicle.

Members highlighted numerous discrepancies between the two accounts of the incident. The Licence Holder informed the Sub-Committee that he was not late picking up the family and chatted to passengers throughout the journey.

The Licence Holder confirmed that the tyre in the photograph was a standard spec for the vehicle and advised that he had an identical vehicle in burgundy. Members queried whether the Licence Holder had picked the family up in his burgundy vehicle as the complainant's account stated the vehicle they were picked up in was a dark colour. The Licence Holder clarified that he had not picked them up in the burgundy vehicle and that he had driven the vehicle in the photographs to collect the complainant from the airport.

Following queries from the Legal Officer in relation to the complainant's account, the Licence Holder advised that he was scratching his leg during the journey due to eczema and a scar on his leg.

The Licence Holder advised that neither he nor the taxi firm had been contacted by the complainant's legal representative or any insurance companies regarding the incident.

The Sub-Committee discussed how many times the Licence Holder asked the family if they were okay following the incident. The Licence Holder advised that he had only asked a couple of times as he was concerned for the family's welfare but he was not worried about the incident.

After careful consideration of the report and representations from the Council's Licensing Enforcement Officer, the representations of the applicant and his representative, and having regard to the Council's Safeguarding, Suitability and Convictions policy, the Sub-Committee **RESOLVED that the Licence Holder was no longer a fit and proper person to hold a Private Hire Driver Licence and Hackney Carriage Driver Licence and that both licences shall be revoked with immediate effect on grounds on public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 for the following reasons:**

- 1. The explanation provided by the Licence Holder was unsatisfactory. Taken at its lowest, the incident still suggested that the Licence Holder was driving erratically. The Licence Holder admitted he had been scratching himself so he had conceded an element of the complainant's account although the frequency of his questions after their welfare was in dispute. Members found it implausible that a loyal customer of the Licence Holder would suddenly have grossly exaggerated an incident. Members did not consider much weight could be attached to the photographs provided as they were not taken contemporaneously or shortly after the incident. Members did not accept the Licence Holder's explanation that the children would remain asleep after the incident. The Licence Holder was not consistent about whether or not he would have used the Standish or Charnock Richard Services turn off from the M6.**
- 2. The Licence Holder was considered a risk to other road users as well as a risk to passengers because of two incidents of careless driving in a short period of time and concerns about whether the Licence Holder was in a fit state to drive during the latest incident.**
- 3. The Sub-Committee considered the fact that two children were present in the taxi at the time of the incident and the effect on them on 28 June 2018 to be an aggravating factor.**
- 4. The severe warning given to the Licence Holder in May this year had been ignored. Furthermore, at the Sub-Committee on 23 May 2018, the Licence Holder was specifically asked whether he had fallen sleep whilst driving, the Licence Holder reassured members that he had not fallen asleep at the wheel. The Sub-Committee now had cause to doubt the assurances given by the Licence Holder at the previous Sub-Committee.**
- 5. In addition, the Licence Holder failed to comply with the condition imposed on him by his PHD licence in that he failed to notify the Council**

within 7 days in writing of his driving licence being endorsed with 3 penalty points. This was in relation to a fixed penalty for a speeding offence. Given the concern over the Licence Holder's standard of driving, the need for the Council to be aware of such matters in accordance with the licence conditions was of increased importance.

- 6. The Council's policy says that complaints about behaviour when driving a taxi would be viewed in a more serious light.**

The Licence Holder had 21 days from receipt of notice of the decision to appeal to the local Magistrate's court.

Within one of the draft reasons read out by Chair at the Sub-Committee on 22 August was a comment that the Licence Holder's disclosure of the conviction for speeding appeared to have been prompted by the investigation about the incident on 28 June. The Licence Holder's representative pointed out that the speeding offence was reported by the Licence Holder to the Council before licensing officers began to investigate the complaint about the incident on 28 June. He is of course absolutely correct. We apologise for this error and this comment has been removed from the final version of the decision and reasons approved by the Chair of the General Licensing Sub-Committee.

Chair

Date