

NORTHAMPTON BOROUGH COUNCIL

TAXI & GENERAL LICENSING COMMITTEE

Tuesday, 4 December 2018

PRESENT: Councillor Flavell (Chair); Councillor Sargeant (Deputy Chair); Councillors Graystone and Larratt

OFFICERS: Ruth Austen (Environmental Health & Licensing Manager), Eleanor Flannery (Senior Licensing Enforcement Officer), Jason Toyne (Senior Licensing Enforcement Officer), Clive Tobin (Licensing & Litigation Solicitor), Ed Bostock (Democratic Services Officer)

1. APOLOGIES

Apologies for absence were received from Councillors Sargeant, Haque, Beardsworth, Walker, Duffy, Davenport and G Eales.

3. DEPUTATIONS/PUBLIC ADDRESSES

There were none.

4. DECLARATIONS OF INTEREST

There were none.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

6. EXCLUSION OF PUBLIC AND PRESS

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100A (4) of the Local Government Act 1972 as listed against such items of business by reference to the paragraph 1 of Schedule 12A to such Act.

The Motion was Carried.

7. PRIVATE HIRE DRIVER - NEW APPLICATION

The Licensing Enforcement Officer submitted a report and explained that the applicant was first issued with a Private Hire Driver's licence on 6th December 2017. Following an incident which occurred on 31st March 2018, he was subsequently arrested and his licence revoked with immediate effect.

The circumstances around the applicant's arrest related to an allegation that on 30th March 2018, he picked up a passenger at approximately 34:45. Upon arrival at the passenger's destination, he grabbed her by the thigh, causing a bruise, and said "Come on, stay." It was alleged that he proceeded to kiss the passenger's mouth and cheek, pulled at her top, groped her neck and caressed her breast. She told him to get off, to which he replied, "Well, I have your home phone number now. I want to see you in 5 minutes, I will wait here."

During his Police interview, he admitted that he was the driver of the vehicle but denied the allegation against him.

The applicant addressed the Committee and explained that on the night in question, he picked up a woman who was smoking when he arrived. She finished her cigarette and entered the vehicle. Upon nearing the destination, the passenger requested that he park in a nearby school car park; he noted that when he parked, there was a car in front, occupied by 2 people, and a camera located above his car. The passenger asked if she could smoke in his car as it was raining, the request was denied. He stated that the passenger then proceeded to repeatedly hit the dash board before exiting the vehicle, emptying her bag and falling down in the car park. He then called the Police and, upon their arrival, asked them if he should call the Council to explain what had happened; they advised that he would receive a letter from the Council in due course. The applicant maintained that he did not touch the passenger and that the mark on her leg was from falling down and not from him grabbing her.

Committee members had no questions to ask of the applicant.

Members retired at 18:27 to make a decision.

The meeting reconvened at 18:32.

RESOLVED:

The Committee has carefully considered the initial police report together with the officer's verbal report at the meeting. They have also listened carefully to the account given by the applicant. Having heard his account the Committee does not believe that the incident occurred as reported and are not satisfied that there is evidence on the civil standard that the incident occurred.

Having considered his account of events and not being satisfied that the event occurred as reported, the Committee also note that there are no convictions or other matters of complaint recorded against the applicant and, accordingly, members consider him to be a fit and proper person to hold a private hire driver's licence and cannot see any reason why a licence should not be granted. Accordingly, they **GRANT** the applicant a private hire driver's licence subject to his compliance with all other requirements under the Council's policies and procedures.

Reasons:

As stated above, the Committee is not satisfied that the incident occurred and they note that the account of the complainant's injuries was not consistent with her account of events.

8. REVIEW OF PRIVATE HIRE DRIVER'S LICENCE

The Licensing Enforcement Officer submitted a report and explained that the Licence Holder was first licensed as a Private Hire Driver on 4th July 2016. On 9th December 2017 a complaint of illegally plying for hire was received by the Licensing Department. The Licence Holder was interviewed under caution on 20th December and invited to attend a Licensing Committee to determine whether he remained a fit and proper person to hold a Private Hire Driver's licence.

The Licence Holder had previously come to the attention of the Licensing Department; after being caught illegally plying for hire on 1st October 2016, he signed a written caution and attended a Safety Awareness Course on 6th February 2017. Due to having attended a Safety Awareness Course, this option was no longer available to him.

The Licence Holder addressed the Committee and stated that on the night of 9th December, he noticed an elderly couple trying to flag down a hackney cab with no success. The male

was laying on the pavement and the lady was limping. When they asked him for assistance, he explained to them that they would need to call the operator and book. When they told him their phone batteries were flat, he called the operator for them. An automated recording advised that he was 8th in the queue and to expect to be dealt with within 15 minutes, so he asked the couple where their destination was. It was less than 1 mile so he took them to their destination without charge.

With regard to the previous incident of plying for hire, the Licence explained that he had been a Private Hire Driver for a number of weeks at the time; a lone female was asking to be taken a short distance through the town centre. He stated that “nights out” were not commonplace in his country so agreed to take the woman because he was concerned for her safety. After reaching the destination, the woman identified herself as a Police Officer and explained that he had committed an offence.

In response to questions, the Licence Holder stated that he wanted to help the elderly couple; he accepted his mistake, had apologised and would ensure that he conducted himself better in the future.

The Solicitor explained to Members their options and the relevant test to be applied; whether the licence holder was deemed to be a “fit and proper person” to continue to hold a licence as a Private Hire Driver or whether there were reasonable grounds to suspend or revoke his licence, and the relevant provisions of the Council’s policy on convictions.

Members retired at 19:00 to make a decision.

The meeting reconvened at 19:16.

RESOLVED:

The Committee has carefully considered the complaint together with the officer’s verbal report at the meeting. They have also listened carefully to the account given by the Licence Holder. Having heard his account the Committee find that he clearly accepts that he took a fare without a booking.

At the time of taking the fare he was not licensed to drive a hackney carriage vehicle and neither was the vehicle concerned licensed for that purpose. This amounts to two separate offences under the Town Police Clauses Act 1847. Members note that he said that he took the fare out of concern for the couple but there is no evidence before them that they were at any particular risk.

The members therefore believe that the Licence Holder was actually plying for hire on a second occasion. The Licence Holder had attended the safety awareness course and was therefore aware of the circumstances in which he can take a fare and the risks of not complying with the law. This offence occurred less than 12 months after attending the course. Members found this to be an aggravating factor and he has clearly not learned his lesson.

For these reasons and having viewed the second contravention as serious, members had no alternative but to suspend the licence for a period of three months. Had there been clear evidence that his insurance policy was not valid at the time then the sanction would have been greater, possibly even a revocation of his licence. Accordingly, the Licence Holder’s licence is **suspended for a period of three months**.

Reasons

As stated above, this is the second offence by the Licence Holder, he had attended the

safety awareness course and knew that it was an offence.

9. REVIEW OF PRIVATE HIRE DRIVER'S LICENCE

The Licensing Enforcement Officer submitted a report and explained that the Licence Holder was first licensed as a Private Hire Driver on 22nd September 2014.

On 3rd April 2018, the Police informed the Licensing Department of an incident that took place 2 days prior; The Licence Holder had been followed on CCTV driving through the town centre attempting to, and succeeding in picking up passengers. Once stopped by the Police at approximately 03:00, he admitted to locking a passenger in his vehicle because they had assaulted him. The Police found his account inconsistent so challenged him as to why he did not call the Police, or stop one of the officers patrolling the town centre. The Police then contacted the operator who advised that the Licence Holder booked off duty at 01:30 and should not have been picking up passengers after that time, especially those not pre-booked.

On 10th April 2018 the Licensing Department contacted the operator and requested the Licence Holder's bookings from 31st March to 19th April 2018. The operator was made aware that the Licence Holder's Private Hire Vehicle plate had expired on 31st March 2018; the plate was renewed on 3rd May 2018 but the operator had continued to take bookings and distribute he was driving his unlicensed vehicle during those times. A verbal warning was issued to the operator for this, a change in personnel introduced and the operator's records have been continually monitored by Licensing Enforcement Officers since.

On 19th April 2018 the Licence Holder was interviewed under caution. After being shown several pieces of CCTV of him driving around the town centre approaching lone females, he denied that he was attempting to pick up un-booked passengers and explained that he was driving around the town centre whilst on the phone to members of his family after booking off with his operator.

The Licence Holder had previously come to the attention of the Licensing Department. On 7th October 2015 he attended a Licensing Committee hearing following a conviction for assault. On 20th June 2017 his vehicle was stopped during a multi-agency check; it was suspended for missing front and rear wheel nuts. On 10th April 2018 he was issued with a warning letter following a complaint regarding reckless driving. On 26th July 2018 a warning letter was issued to the Licence Holder following a DVLA check which revealed a driving offence committed on 17th April 2018 This was a false declaration as he failed to disclose it to the Licensing Department. On 5th November 2018 the Licensing Department received a complaint relating to dangerous driving on the Licence Holder's part.

The Licence Holder addressed the Committee and explained that on 1st April he finished his last job at 01:30 and spent some time on the phone to his brother who had recently suffered a heart attack. At the time he was in the immediate vicinity of Saffron, Castilian Street. A man and woman then entered his vehicle and asked to be taken to Abington. When he refused, the man grabbed and threatened him. He proceeded to drive down St Giles Street to HSBC on George Row, opened his window and called for somebody to contact the Police. At this point, he stated that the man hit him and both passengers left the vehicle and ran away. He was then approached by a bouncer who advised him to call the Police. After some time the Police arrived and suggested that he go to the hospital; he did not.

Members asked the Licence Holder why he did not remove the plate and bubble from his vehicle after his shift ended. He explained that he was upset and distracted; he had been speaking to his brother on the phone whose health was very poor at the time. He stated that he did not want to go home and possibly wake up his family so stayed in the town centre for approximately 2 hours. The Licence Holder further advised that the 2 unsolicited passengers

in his vehicle were there for roughly 20 minutes. When asked why he returned to Saffron, he stated that his friend lived nearby and that he regularly spent a lot of time there.

Regarding the failure to declare his speeding offence on 17th April 2018, the Licence Holder explained that he had returned from holiday and the M6 motorway was very busy and he had not noticed the change in speed restrictions.

Relating to the 5th November incident, officers explained that the Licence Holder had been invited to an interview but had been out of the country so no date had yet been set.

Members retired at 19:55 to make a decision.

The meeting reconvened at 20:10.

RESOLVED:

The Committee has carefully considered the initial police report together with the officer's verbal report at the meeting. They have also listened carefully to the account given by the applicant. Having heard his account the Committee is not satisfied with his account of events on the night in question and believe that the incident occurred as reported by the police and shown in the CCTV footage viewed by the Licensing Officer. They therefore found that he had been approaching lone females in the town centre, possibly for the purpose of plying for hire. In any event, they considered this behaviour to be inappropriate and a cause for concern. The members could not understand what legitimate reason he had for behaving in this way and did not find his explanation of events credible. Members were particularly concerned as to why there was a 'baby talk sex line' card visible in the vehicle, noting that no explanation had been given as to why it was there. Members did not consider that it was appropriate for such an item to be visible in a private hire vehicle and that many passengers could be offended by such material.

Members were also concerned that he had driven an unlicensed vehicle for 19 days and was unaware of this until told by Licensing Officers. Members stated that private hire drivers should know whether the vehicle they drove was licensed or not and the fact that the expiry date was written on the plate on the back of the vehicle meant there was no excuse for not having known.

Members also considered the Licence Holder's lengthy history of contraventions including the assault on a traffic warden, missing wheel nuts, allegation of reckless driving and undeclared speeding offence. They noted that the range of contraventions included licensing law, assault and road traffic offences.

Taking account of all these matters together there were clear grounds and a reasonable cause to exercise the powers under section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 and, given the number and range of contraventions, there was no sensible course of action other than to revoke his Private Hire Drivers licence.

Accordingly, the Committee **REVOKES** the Licence Holder's private hire driver's licence.

Reasons

As stated above, the Committee is satisfied that the incident occurred, does not accept the Licence Holder's explanation and they also note the history of contraventions.

The meeting concluded at 8:15 pm