

## LICENSING COMMITTEE

**A meeting of the Licensing Committee was held on 28 February 2022.**

**PRESENT:** Councillor Arundale (Chair), Councillor E Polano (Vice Chair); Councillors: Bell, Cooke, Hill, C Hobson and Lewis.

**OFFICERS:** S Bonner, C Cunningham, J Dixon and T Hodgkinson.

**PRESENT AS OBSERVERS:** A Burgon and E Hill – Legal Services.

**APOLOGIES FOR ABSENCE** were submitted on behalf of Councillors Dean, Higgins, Jones, McCabe, Smiles, J Walker and S Walker.

### **\*\* DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members at this point in the meeting.

### **MINUTES – LICENSING COMMITTEE – 10 JANUARY 2022**

The Minutes of the previous Licensing Committee held on 10 January 2022 were submitted and approved as a correct record.

### **EXCLUSION OF PRESS AND PUBLIC**

**ORDERED** that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

### **REVIEW – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 01/22**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 01/22, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report. It was highlighted that the driver was first licensed with Middlesbrough Council in March 2017, however, his licence was suspended, with immediate effect, by the Licensing Manager on 28 June 2021 following receipt of information from Cleveland Police.

On 28 June 2021, the information provided by Cleveland Police stated that the driver had been arrested for the alleged offence of 'Rape of Female, aged 16 years or over' and that the driver was remanded on conditional bail to attend Middlesbrough Police HQ on 20 July 2021.

The information provided by Cleveland Police related to an incident reported to them on 24 June 2021 by James Cook Hospital, stating that a female had presented at the hospital stating she had been raped whilst on a night out in Middlesbrough. Details of the allegation were contained within the submitted report.

The driver was identified as the alleged suspect and it was alleged that the offence had taken place at a licensed public house where the driver worked. The driver was contacted by the Licensing Manager on 28 June 2021 when he confirmed that he had been arrested but denied the allegation.

The Licensing Manager suspended the driver's Private Hire Vehicle driver licence, with immediate effect, until such time that investigations by the Police had taken place and the matter was now referred to the Licensing Committee to determine the status of the driver's licence.

On 28 September 2021, Cleveland Police confirmed that no further action would be taken in respect of the driver.

Subsequently, the driver was interviewed by a Licensing Enforcement Officer on 1 October 2021 when he provided an explanation in relation to the incident and in relation to the offences detailed at 1) and 2) in the report and a previous warning regarding his driving standards. The driver denied the allegation of rape made against him and stated that what had taken place had been consensual. A detailed account of the incident, provided by the driver, was attached at Appendix 1.

The Licensing Manager advised Members that the reason for the delay in bringing the matter before Committee was due to difficulties in attempting to obtain further information from Cleveland Police. Cleveland Police had confirmed that no further information was available, therefore, the information available was set out in the report.

The driver confirmed that the report was an accurate representation of the facts and was invited to present his case and also responded to questions from Members, the Licensing Manager and the Council's Legal Representative.

It was confirmed that there were no further questions and the driver and Officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew from the meeting whilst the Committee determined the review.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

**ORDERED** that the suspension of Private Hire Vehicle Driver Licence, Ref No: 01/22, be lifted and that the licence be retained but that the driver be issued with a warning in relation to future conduct, as follows:-

#### Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a private hire/hackney carriage vehicle driver's licence on the grounds that:
  - Since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence;
  - Since the grant of the licence the driver has committed an offence or breached the Act or the Town Police Clauses Act 1847;
  - For any other reasonable cause.
2. The Committee considered Section 61 of the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 ("the Policy"), the report and the representations made by the driver.

#### Decision

3. After carefully considering all of the information and considering the review on its own merits, the Committee decided to lift the suspension and reinstate the private hire vehicle driver's licence for the following reasons.

#### Reasons

4. The Committee considered the driver's explanation of events, it considered that there was insufficient or no information from the police to contradict or question the driver's version of

events and no way of contacting or identifying the complainant to obtain that information. Following a number of attempts, no further information had been provided.

5. It considered the incident happened outside the role of a licensed driver, that the driver had already been suspended for a lengthy period and that the police confirmed there was no criminality because he was released from investigation with no further action or investigation by the police.
6. The Committee considered that the driver was aware of his position of trust and the requirement not to act inappropriately with passengers irrespective of their behaviour.

#### **REVIEW – COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 02/22**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 02/22, where circumstances had arisen which required special consideration by the Committee.

The Licensing Manager advised that the driver's legal representative was unable to attend, however, the driver was in attendance accompanied by a family member who was a solicitor and willing to act on his behalf. The driver had confirmed that he was happy to proceed.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting accompanied by his representative, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report. It was highlighted that the driver was first licensed with Middlesbrough Council in June 1994 and appeared before Members for review of his licence following receipt of information on 4 November 2021 from the Council's LADO (Local Authority Designated Officer).

The information provided by the LADO stated that, on 4 November 2021, a report had been received from a specialist school that the mother of a ten-year-old autistic female pupil had reported concerns at finding a message on her daughter's facebook account from a taxi driver who transported her daughter, and other learners, to and from the school. A copy of the message was attached at Appendix 1 to the report.

The driver was contacted by a Licensing Enforcement Officer on 4 November 2021 and provided an explanation in relation to the concerns raised in the report. It was highlighted that the driver had been covering the school run journeys for another licensed driver whilst he was on holiday.

The driver confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The driver's representative presented the case in support of the driver and, with the Chair's permission, submitted a printed list of the driver's facebook friends - to demonstrate that they were males predominantly of a similar age to the driver – and several character references.

The driver also spoke in support of his case and responded to questions from Members, the Licensing Manager and the Council's Legal Representative.

It was confirmed that there were no further questions and the driver, his representative and Officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew from the meeting whilst the Committee determined the review.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

**ORDERED** that Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref No: 02/22, be retained but that the driver be required to again complete safeguarding training.

#### Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 (“the Act”) the Committee may revoke or suspend a private hire/hackney carriage vehicle driver’s licence on the grounds that:
  - Since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence;
  - Since the grant of the licence the driver has committed an offence or breached the Act or the Town Police Clauses Act 1847;
  - For any other reasonable cause.
2. The Committee considered Section 61 of the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 (“the Policy”), the report and the representations made by the driver and his representative.

#### Decision

3. After carefully considering all of the information and considering the review on its own merits the Committee decided to issue the driver with a warning to ensure he was aware of his conditions and code of conduct when carrying vulnerable passengers and that he should retake the Council’s safeguarding training.

#### Reasons

4. The Committee carefully considered the driver’s, and his representative’s, explanation of events. It considered the numerous character references and the driver’s previous trusted involvement with voluntary groups involving children and youths. It considered he had been licensed for approximately 28 years conveying children and other vulnerable passengers without any issue or complaint whatsoever. It also considered that the Local Authority Designated Officer was of the view that only additional training would be required and therefore there was no threat.
5. The Committee considered this was a single incident carried out without malice or threat or with any sinister or bad intent but rather from ignorance. The response on face book was done at school with the escort in the car as part of the one discussion or incident, no contact was attempted or made at any later time.
6. However, the Committee did consider that the driver needed to revisit the Safeguarding Training and the Driver’s Code of Conduct when transporting vulnerable passengers.

#### **REVIEW – COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 03/22**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 03/22, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report. It was highlighted that the driver was first licensed with Middlesbrough Council in May 2012 following an appearance at Committee when Members decided to grant him a licence after considering the circumstances of a simple caution

which is now considered too old to be of relevance.

The driver next appeared before Members in September 2014 when, after considering the information presented, he was issued with a warning. A copy of the warning letter was attached at Appendix 1.

The driver now appeared before Committee in relation to a complaint received from a member of the public on 3 February 2022. The complaint related to an incident on 2 February 2022 when the female complainant stated she undertook a journey in the driver's vehicle with her two young children and claimed that the driver attempted to overcharge her due to requesting to be taken to a different destination from that pre-booked and paid for via the operator's app. She further claimed that the driver had shouted and sworn at her and told her to get out of the vehicle before reaching their final destination. A copy of the complainant's statement was attached at Appendix 2 to the report.

Enquiries were made by the Licensing Section with the driver's operator which confirmed details of the journey and also that no revised price was requested by the driver.

The driver was interviewed by a Licensing Enforcement Officer on 7 February 2022 when he provided an explanation in relation to the complaint and confirmed that he had advised the passenger that it was likely the journey would cost slightly more as the journey was one or two miles further than the destination previously booked. A full statement was provided by the driver and attached at Appendix 3 to the report.

The driver's operator had since provided further details and clarification around the booking process used via the operator's app and also confirmed the cost of the journey to the passenger's final destination.

For the Committee's information, a map showing the final destination of the passenger's journey was attached at Appendix 4.

The driver confirmed that the report was an accurate representation of the facts and advised that he had contacted his operator himself to provide confirmation that he had not been speeding during the journey, as stated by the complainant. The Licensing Manager made enquiries and was able to provide Members with an email from the driver's operator confirming the speed at which he was travelling along certain points of the journey.

The Licensing Manager confirmed that the complainant had been contacted and invited to attend Committee, which she had initially accepted. However, further attempts to contact the complainant to confirm her attendance had been unsuccessful. The complainant was not in attendance at the meeting.

The driver was invited to address the Committee in support of his case and provided his version of events in relation to the complaint. The driver also responded to questions from Members, the Licensing Manager and the Council's Legal Representative.

It was confirmed that there were no further questions and the driver and Officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew from the meeting whilst the Committee determined the review.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

**ORDERED** that Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref No: 03/22, be retained and that no further action be taken.

Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a private hire/hackney carriage vehicle driver's licence on

the grounds that:

- Since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence;
  - Since the grant of the licence the driver has committed an offence or breached the Act or the Town Police Clauses Act 1847;
  - For any other reasonable cause.
2. The Committee considered Section 61 of the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 ("the Policy"), the report and the representations made by the Licensee and the written representations of the Complainant.

#### Decision

3. After carefully considering all of the information and considering the review on its own merits, the Committee decided to take no further action in respect of the Licence, for the following reasons.

#### Reasons

4. After carefully considering the detailed explanation of the journey, the information from the operator, the conditions attached to the driver's licence, the posts on Facebook from the complainant and the complaint itself, it considered the driver did no wrongdoing. It considered the journey was slightly longer than the Complainant confirmed on the app, however, the driver correctly informed the passenger that he would contact the operator as it may be a pound or so more. The Committee believed the passenger reacted badly and the driver said he decided not to contact the operator to stop matters escalating. He charged the passenger the rate quoted on the app and did not request or take more than that fare.
5. The Complainant did not attend the Committee and all of the credible information pointed towards the explanation above, the Committee did not believe the driver had been aggressive or had sworn at the passenger.
6. There appeared to be no breach of condition or inappropriate behavior and therefore no further action was taken.