

MINUTES
OF A MEETING OF THE
TAXI LICENSING SUB COMMITTEE

held on 22 July 2021

Present:

Cllr R N Leach (Chairman)

Cllr M A Bridgeman Cllr K Howard
Cllr J Brown

1. DECLARATIONS OF INTEREST

The Chairman reported that Councillor Harlow had advised that she would be unable to take part in the determination of the two items before the Sub-Committee as she had previously had contact with both of the taxi drivers. Councillor Harlow had therefore submitted her apologies for absence for the meeting.

2. URGENT BUSINESS

There were no items of Urgent Business.

3. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

That the press and public be excluded from the meeting during consideration of minutes 4 to 6 in view of the nature of the proceedings that, if members of the press and public were present during these items, there would be disclosure to them of exempt information as defined in paragraph 4 of Part 1 of Schedule 12A, to the Local Government Act 1972.

4. REPORT BY OFFICERS

The Sub-Committee received a report which requested that a decision be made as to whether Mr I should continue to be permitted to hold a Hackney Carriage or Private Hire Licence, under the Local Government (Miscellaneous Provisions) Act 1976, following the accrual of in excess of 12 Penalty Points under the Council's Penalty Points Scheme. Mr I attended the meeting together with his son and, through video conferencing, his Solicitor Mr Schiller.

All parties present had a copy of the Licensing Committee's agreed procedure to be followed at Taxi Licensing Sub-Committee hearings. The Chairman introduced the Sub-Committee to those present and explained the procedure and order of speaking that would be followed during the hearing.

The Licensing Authority's representative outlined the report before the Sub-Committee. Mr I had held a Driver's Badge between 2006 and 2009 and since 2013, with an expiry date of

16 July 2021 and no contact received regarding a renewal. There had been an incident in January 2018 whereby Mr I was seen with his licence plate in the rear window as opposed to the rear bumper and with no operator door signs which had resulted in a written warning. In February 2018 he had been issued with a further written warning following a notification from Surrey Police that he had failed to stop at a red light, though he had advised the Police that another person had been operating his vehicle. The Sub-Committee was advised that due to the expiry of the licence the case should be considered as a request for a renewal.

There were four particular incidents highlighted to the Sub-Committee.

On 26 February 2021, Mr I had been seen by a Licensing Officer smoking a cigarette in his licensed vehicle, resulting in five penalty points being issued.

On 22 March 2021, Surrey Police had advised that a lone female member of public had complained that Mr I had made 'threats to kill' regarding his daughters by their husbands, resulting in an arrest. Part of the conversation had been recorded by the passenger and passed to the Police, who had arrested and interviewed Mr I and decided to take no further action. A total of six penalty points had been awarded in relation to aggressive behaviour and bringing the trade into disrepute.

On a number of dates in May and July 2021, Mr I was seen on CCTV parking in the disabled bay on The Broadway in the Town Centre, with the earliest time being 23:33 hours. A total of 4 penalty points had been issued for each offence.

An addendum report had been issued which stated that on 1 July 2021 Surrey Police had advised that Mr I had transported a 12 year old lone female from 01:52 hours from Sheerwater to Kingfield Road without raising any concerns to the safeguarding of the minor. The Police had confirmed that the child looked her age and it was unlikely that she could have been misconstrued as an adult. Mr I was stated to have completed his Child Sexual Exploitation (CSE) training with Barnardo's on 9 June 2019.

The Chairman gave Mr I and his Solicitor the opportunity to ask questions of the Licensing Authority's representative.

Following questions, it was confirmed that the Licensing Authority was concerned with the recent incidents only and that the Points Based system had been introduced in October with correspondence circulated to the taxi drivers regarding its implementation. Regarding the incident on 22 March 2021, no witness statement had been sought from Mr I further to the information already provided by the Police, who had been asked to supply and further evidence with none provided. Mr I had not been spoken to as the Licensing Authority would rely on the information provided by the Police as there would be no reason to question their statements. In relation to the number of points issued, it had been felt lenient to award six points as the Policy set out a range for aggressive behaviour of between 8 and 12 points.

Regarding the disabled bay incidents, Mr Schiller questioned the likelihood of a disabled driver wanting to use the disabled bays late at night and it was confirmed that there was no time limit for the bays to be used by non-disabled persons and that a Traffic Order was in place. The proximity of the bays to the office of the operator was noted.

Due to the Solicitor representing Mr I advising that he had not yet had sight of the addendum regarding the CSE incident, the Chairman adjourned the meeting to enable him

to read the addendum and discuss it with his client, which took place from 7.45pm to 8.05pm.

Following questions by Mr Schiller, it was noted that the booking had been made by telephone to the operator; the child had been wearing a face mask; the journey had been around six minutes' duration; and an adult had met the child at the destination and paid for the fare. It was noted that the Barnardo's training provided taxi drivers with information on CSE issues that should be looked out for and how reporting should take place. Mr Schiller stated that Mr I had seen no cause for concern; he had thought she had been a teenager and that no report had been made. It was added that a teenager was still classed as a minor and that the purpose of safeguarding training was to protect vulnerable people.

Following questions by Sub-Committee members, it was noted that there was an appeals procedure for the award of penalty points within ten days, in addition to the case being brought before the Sub-Committee. No appeal requests had been received from Mr I in relation to the three sets of penalty points being awarded.

The Chairman gave Mr I the opportunity to address the Sub-Committee. Mr Schiller stated that Mr I had worked as a taxi driver for many years and had a decent but not perfect record, with a vast number of journeys undertaken. He stated that the issues had begun following the introduction of the Penalty Points system and the Sub-Committee would need to determine the weight given to each incident. The smoking incidents and the points awarded was stated to be accepted. Mr Schiller stated that in his view insufficient evidence had been gathered regarding the 'threats to kill' incident and added that the Police had not taken any further action. He felt that the award of six points had been too high. Regarding the disabled bay parking incidents, he stated that the time of day for the violations should be taken into account. He stated that a warning should have been issued instead of the penalty points. In relation to the CSE incident he stated that nothing had triggered concern and Mr I had driven the child to a nearby adult who received her, adding that the wearing of her face mask would have made establishing her age harder. Mr Schiller advised that the Sub-Committee should consider the aggregation of the issues, alongside the number of years Mr I had worked as a taxi driver with few passenger complaints.

Following questions by the Licensing Authority's representative, it was noted that Mr I's son had received the documentation regarding the award of penalty points but had not passed them onto his father, however he did advise him that penalty points had been awarded for the parking incidents. It was noted that the documents had been sent by recorded delivery, normal delivery and by email. Regarding the CSE incident it was noted that Mr I had asked the girl whether she had been working, to which she replied that she had not. In relation to the 'threats to kill' incident, Mr Schiller stated that without speaking to the complainant it was not clear how emotive she had been due to any events that had taken place earlier in the evening.

Following questions by Sub-Committee members, it was noted that Mr I had four daughters; the recording made by the complainant regarding the 'threats to kill' incident had been partial; Mr I had not made such comments to his son about his wife; and Mr I did not know why such comments had been made by the complainant.

The Chairman gave those parties present the opportunity to make closing statements.

Mr Cobb advised that the Sub-Committee had heard the information provided by Mr I and his Solicitor and would need to determine whether Mr I was a fit and proper person to hold a Driver's Badge. Due to the number of incidents and their aggregate severity, the

Licensing Authority had felt that Mr I was not fit and proper to operate as a taxi driver within the Borough.

Mr Schiller urged the Committee to take account of the length of time Mr I had been a taxi driver and the vast number of journeys he would have undertaken without incident. He urged the Sub-Committee to either issue a warning or a short suspension whilst requiring him to retake the CSE course.

The Chairman adjourned the hearing for deliberation at 8.50pm, later requesting that the Council's Solicitor, Amanda Francis, join them. The Sub-Committee reconvened at 9.05pm.

The Chairman reported that the Sub-Committee had taken account the written representations before it, the oral statements made at the hearing, the Council's Penalty Points Scheme and National Guidance. The decision of the Sub-Committee would have been to revoke the licence because it did not consider Mr I to be a fit and proper person to hold a licence because of the accumulation of minor licensing breaches in a short period of time together with recent behaviour. The Chairman stated that on that basis the decision of the Sub-Committee was to refuse the application for renewal.

RESOLVED

That the Driver's Badge held by Mr I would not be renewed due to the accumulation of minor licensing breaches within a short period of time, together with his recent behaviour.

5. ADJOURNMENT

The Chairman adjourned the meeting at 9.15pm and reconvened the meeting at 9.20pm.

6. REPORT BY OFFICERS

The Sub-Committee received a report which requested that a decision be made as to whether Mr A should continue to be permitted to hold a Hackney Carriage Licence, under the Local Government (Miscellaneous Provisions) Act 1976, following the accrual of in excess of 12 Penalty Points under the Council's Penalty Points Scheme. Mr A attended the meeting together with, by video conferencing, his Solicitor Mr Schiller.

All parties present had a copy of the Licensing Committee's agreed procedure to be followed at Taxi Licensing Sub-Committee hearings. The Chairman introduced the Sub-Committee to those present and explained the procedure and order of speaking that would be followed during the hearing.

The Licensing Authority's representative outlined the report before the Sub-Committee. Mr A had held a Driver's Badge since at least 2001 (the earliest date for which records are held). It was stated that his record during that time had not been incident free with a number of issues highlighted which had taken place between 2009 and 2018.

However, the incidents before the Sub-Committee were related to Mr A requesting to change the numberplate on his licenced vehicle on 8 May 2021, to which the Licensing Authority had requested the required supporting documents and reminded him that the vehicle could not be driven until it was correctly licenced. There had been CCTV footage of Mr A's vehicle seemingly being operated as a Hackney Carriage vehicle in the Town Centre with the replacement numberplate on 7 May 2021. When Mr A was contacted, he

had stated that he was picking up a neighbour, which did not correlate with the four times the CCTV footage had shown him arriving and leaving over a two hour period. A total of 12 penalty points had been awarded for each incident – using an unlicensed vehicle for hire/reward work and using a vehicle without valid or adequate insurance. With the number of points awarded totalling 24, the decision had been made refer the matter to the Sub-Committee.

Following questions by Mr Schiller, the technicality of a vehicle being licenced until the expiry of the licence or being unlicensed by the Council was noted. This could be interpreted as the vehicle was licenced but with the incorrect licence plate on display. The insurance on the underlying vehicle would also remain valid.

Following questions by Members of the Sub-Committee it was noted that the replacement numberplate was a cherished family plate and that no further changes were made to the vehicle.

The Chairman gave Mr A the opportunity to address the Sub-Committee.

Mr Schiller stated that there was a question over whether the penalty points should have been issued in light of the underlying vehicle remaining licenced and the insurance being valid during the time of the change of the registration number.

No parties present had any questions for Mr A or his Solicitor.

The Chairman gave those parties present the opportunity to make closing statements.

Mr Cobb advised that the Sub-Committee that in light of the evidence provided at the hearing, the Licensing Authority would need to look further into the situation and, in light of that, advised the Sub-Committee that it would be appropriate to withdraw the award of the 24 penalty points allocated to Mr A.

Mr Schiller thanked Mr Cobb for his advice to the Sub-Committee and urged the Sub-Committee not to take any further action against Mr A.

The Chairman reported that the Sub-Committee would determine the matter without an adjournment. In making the decision, the Sub-Committee had taken into account the written representations before it, the oral statements made at the hearing and the Council's Penalty Points Scheme. The Sub-Committee cancelled the issue of the penalty points notice to the licensee.

RESOLVED

That the issue of the 24 penalty points to the licence held by Mr A would be cancelled.

The meeting commenced at 7.00 pm
and ended at 9.55 pm

Chairman: _____

Date: _____