



LICENSING SUB-COMMITTEE (TAXIS)

**Determination of action to be taken
following investigation of complaints
concerning a private hire driver**

Decision Record

DATE OF HEARING: 7th August, 2024

MEMBERS SITTING: Cllrs A.H. Crawford (Chairman), Sarah Spall and Jacqui Vosper

DECISION

To revoke the driver's private hire driver's licence.

REASONS

The Sub-Committee has considered the report from the Council's licensing manager into the fitness of the driver to hold a private hire driver's licence. At the hearing on 7th August, 2024, the Sub-Committee heard from Ms Shelley Bowman, Ms Aimee Vosser and from the driver himself.

The background to this matter is that the driver has held a private hire driver's licence issued by the Council since 30th December, 2019. On 19th December, 2022, he was given a warning for failing to notify the Council of the imposition of penalty points on his DVLA driving licence.

On 20th March, 2023, the driver was arrested by Hampshire Police on suspicion of stalking and harassing a female passenger. An email from the police dated 20th March, 2023 (page 56) alleges that:

"He has begun a course of conduct against the female [sic] wishes where he had attended the victims address under false pretences. Has been told to stop but continued and as a result caused the victim a great deal of distress and anxiety.

There are concerns the male has breached data protection by accessing information from the taxi company."

Subsequently, the complainant withdrew support for the investigation and no further action was taken by the police in relation to the allegation.

On 11th January, 2024, the driver picked up a male and female passenger. Having dropped the male passenger at his destination, it was alleged that he invited the female passenger into the front passenger seat so that she should get the ride home for free.

On 17th January, 2024, the Council's licensing officer, Ms Aimee Vosser, received an email from the driver's private hire operator. The email stated:

"To confirm, I have received a complaint from a female customer regarding inappropriate sexual behaviour by the above named driver.

When I spoke to the lady in question, she informed me that on the evening of the 11th January, she had been travelling with a friend, who was then dropped off which left her alone in the car with the driver. At this point he invited the lady to move [sic] the front of the vehicle so that he could show her how she could get a ride home for free!

The lady is, quite rightly, disgusted by such predatory behaviour and has said if nothing is done she will be informing the police!"

During the journey, it was alleged that the driver asked the female passenger whether he remembered a previous journey in his vehicle. Following this earlier journey, which appears to be said to have happened around September 2023, she alleged that he had messaged her repeatedly from his private mobile telephone until she blocked his number to prevent further contact.

The driver's mobile telephone records were called for. He has two private mobile telephones. The records for one show that on 15th September, 2023, he sent 11 text messages to the complainant's telephone.

The complainant gave an account to Ms Aimee Vosser, a licensing officer employed by the Council, during a conversation on 30th January, 2024. Ms Vosser recorded that conversation in a witness statement which the Sub-Committee has read. Since that conversation, the complainant has not engaged in a formal investigation.

The driver was interviewed twice by Council officers: on 14th March, 2024 and 21st May, 2024. In interview, the driver denied making any offer of a free journey in January 2024. He said that he had obtained the complainant's mobile telephone number because she had misplaced it and borrowed his mobile telephone to call it. The Sub-Committee notes that the telephone records obtained do not show any calls being made from the driver's telephone to the complainant on the night of 11th to 12th January, 2024. Two calls were made on 13th January, 2024 but that is after the journey.

He further said that the complainant had telephoned and messaged him repeatedly in the following days, culminating in his driving to Oxford to collect her at 2.00am when she had called him in distress and he had been home asleep. He alleged that she had stolen a substantial amount of cash from the central console of his vehicle, which he said he did not notice until the following day. He did not report the alleged theft to the police.

In reaching its decision, the Sub-Committee has had regard to the Department for Transport statutory taxi and private hire vehicle standards (July 2020 and to the Council's own taxi licensing policy and guidance. In particular, the policy states:

5.19. The licensing authority notes that the term 'fit and proper person' is not defined in law with any degree of particularity. However, the licensing authority believes that passengers and other road users should be able to rely on the assumption that licensed drivers are good drivers with sufficient driving experience, knowledge, and skills as to safely negotiate the perils of the public highway and/or perform the duties of a licensed driver. The licensing authority also believes that passengers rely on the expectation that they will not be harmed in

any way in use of a hackney carriage and/or private hire service and that the individuals providing them are not persons who would take advantage of their employment or position to abuse or assault their customers, others and/or their property.

5.20. For these reasons, the licensing authority contends that, in determination of fitness and propriety, it is entitled to consider all matters concerning an individual applicant or licence holder. For these purposes, the licensing authority will consider the entirety of the individual concerned and/or their character. This may include but is not limited to the individual's attitude and temperament.

...

5.25. The safety of the public shall be the overriding factor in considering whether or not a license shall be issued.

5.26. In considering whether an individual (whether applicant or licence holder) is and/or remains fit and proper, the licensing authority will pose and seek to address the following question (or similar); namely – 'Without prejudice, and based on the information before me, would I allow any person for whom I care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?'

5.27. If, on the balance of probabilities, the answer to the above question (or similar) is 'no', the licensing authority will take the view that the individual (i.e., the applicant or licence holder) should not hold or be given a hackney carriage and/or private hire driver's licence. In these circumstances, the licensing authority will suspend, revoke, or refuse the licence as may be appropriate.

5.28. Being grounded in civil law, the licensing authority recognises that all licensing decisions on the suitability of an applicant or licence holder are made on the balance of probability. In recognition that licensing primarily concerns safeguarding of the public, the licensing authority will take this to mean that an applicant or licence holder should not be given 'the benefit of the doubt'. Therefore, in borderline cases, where it is considered 50:50 as to whether an individual is suitable, the licensing authority will also take this to mean that the individual (i.e., the applicant or licence holder) should not hold or be given a hackney carriage and/or private hire driver's licence.

The Sub-Committee has reached the following conclusions. Although it has not heard from the complainant from the 11th January, 2024 journey, it considers her complaint to be credible and internally consistent. Her credibility is supported by other documents, such as the driver's telephone records. It refers to two incidents of concern to the complainant: in September 2023 (when the telephone records show that the driver sent 11 texts in one day) and January 2024. This is against the background of a further complaint of unwanted and predatory behaviour in March 2023. This earlier complaint again alleged direct contact from the driver's private mobile telephone.

On any analysis, the driver made a conscious decision to contact a passenger using his private mobile telephone and not through his licensed operator. At best, this is reckless and unwise. In the context of the complaint, it shows an intent to contact the complainant otherwise than by authorised channels. If what the driver says is right and he travelled to Oxford at the complainant's request (although he provided no evidence to support this assertion), then he did so either for free, which the Sub-Committee considers unwise and potentially inappropriate, or in breach of the private hire legislation requiring all private hire journeys to be pre-booked through a licensed operator, which this journey was not.

The Sub-Committee did not find the driver's account of his actions to be reliable or consistent. For example, he alleged that the time of the two calls to the January complainant's telephone (on 13th January, 2024) was particularly busy. This is at odds with the fact that the operator records show that he carried out no bookings between 8.02pm and 11.06pm. Further, he initially alleged that his telephone records did not go back as far as January 2024 because he had changed devices. The records in fact plainly did go back that far. In summary, the Sub-Committee consider the allegations of inconsistency made by Ms Bowman in her decision sheet (pages 21 to 23) to be well-founded.

Taking into account the paramount consideration of public protection and public safety, the Sub-Committee asked itself whether, based upon the information before it, it would allow any person for whom its members cared, regardless of their condition, to travel alone in a vehicle driven by the driver, at any time of day or night. Its answer to that question is no. The driver has used his position as a private hire driver to pursue predatory conduct towards female passengers. The Sub-Committee considers that there is reasonable cause to revoke the driver's private hire driver's licence. Further, it considers that it is in the interests of public safety that this revocation should be with immediate effect.