

SPEAKERS PANEL (LICENSING)

15 March 2022

Commenced: 10.00 am

Terminated: 12.10 pm

Present: Councillors Taylor (Chair), Quinn (Deputy Chair), S Homer, Jackson, Lewis, T Sharif and Sweeton

In Attendance: Ashleigh Melia Legal Representative
Mike Robinson Regulatory Services Manager (Licensing)
James Horton Regulatory Compliance Officer (Licensing)

Apologies for Absence: Councillors Cartey, J Homer, Lane and Chadwick

21. DECLARATIONS OF INTEREST

There were no declarations of interest.

22. MINUTES

The minutes of the Speakers Panel (Licensing) meeting held on 18 January 2022 were agreed as a correct record.

23. EXEMPT ITEMS

RESOLVED

That under Section 100A of the Local Government Act 1972 (as amended) the public be excluded for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 2 and 3 of Part 1 of Schedule 12A of the Act and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, because disclosure of the personal information contained in the reports would not be fair to the licence holder and would therefore be in breach of Data Protection principles.

24. REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE - 5/2021

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the licence holder remained a fit and proper person to hold the relevant licence in accordance with the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The Panel considered the written information submitted and heard the Regulatory Services Manager (Licensing) case. He advised the Panel that the licence holder had held a Private Hire Driver's Licence with the Authority since 27 July 2021.

On 27 January 2022, Greater Manchester Police emailed the Regulatory Services Manager (Licensing) to notify them of an allegation of sexual assault by a taxi driver within the Borough during the early hours of 23 January 2022. The information provided by Greater Manchester Police, alleged that the licence holder arrived to collect a pre-booked job outside a property in Stalybridge during the early hours of 23 January 2022. Upon arrival, the complainant entered the vehicle in the front passenger seat and within 5 seconds, it was alleged that the licence holder had sexually

assaulted the complainant by putting their hand down the complainant's top and cupping her left breast.

The licence holder attended an interview with the Regulatory Services Manager (Licensing) and a Regulatory Services Officer (Licensing) on 27 January 2022 to give their version of events. A transcript of the interview was appended to the report. Witness statements from the complainant, their friend, who the taxi booking was for and whom the licence holder later drove to Bury in their taxi, and a witness statement from the licence holder were also appended to the report.

Vehicle tracking information and supplementary details regarding the booking had been provided to the Licensing department by the taxi operator, which confirmed that the vehicle allocated to the booking and was present at the time the alleged assault took place, was licenced by the licence holder.

CCTV footage captured by the property in Stalybridge was viewed, which showed the complainant conversing with the driver of the taxi at the driver's window before trying to get into the rear passenger door on the driver's side. This door was locked and the driver can be heard telling the complainant to try the other side, which was also locked. The complainant claims to get into the front passenger seat of the taxi. Although this cannot be seen on the CCTV footage audio, that sounds like a car door opening and closing, could be heard. The vehicle could then be seen to drive off.

The Panel were made aware of the relevant sections of the Policy and Guidelines relating to the Application of the "Fit and Proper Person Test" to Licensed Drivers and Operators.

Having heard the Regulatory Services Manager's (Licensing) case, the licence holder, their legal representative, the complainant and the Panel were provided with the opportunity to ask questions.

The complainant then addressed the Panel and gave their version of events. They stated that they had tried to order a taxi from the property in Stalybridge to Hyde via their mobile phone in the early hours of 23 January 2022. They were unsure if the booking had been successful as the battery on their device had run out. A friend in the property shouted that a taxi had arrived and the complainant went outside to see if it was the taxi they had tried to book. A conversation ensued with the driver regarding the booking and destination.

The complainant asked to be taken to Hyde and claims they negotiated a fare of £10 for the journey. They tried to enter the taxi via the rear passenger door on the driver's side, which was locked. The driver told them to try the other side, which was also locked. They claim they entered the vehicle via the front passenger door and the vehicle drove off. The complainant states that within five seconds the driver had put his hand through her top and cupped her left breast. They stated that as their top was close fitting they were not wearing a bra. The complainant said that she froze, asked the driver what they were doing before bursting into tears. The driver ordered her out of the taxi and she walked back towards the property in a state of distress.

She told the Panel that she immediately entered her friend's taxi that was outside the property and was taken to her Mother's house. She explained what had happened and her Mother contacted the Police.

Having heard the complainant's case, the licence holder, their legal representative, the Panel and the Licensing representatives were provided with the opportunity to ask questions.

The licence holder then addressed the Panel and explained that they had arrived in the country in October 2020. They had been a taxi driver since July 2021 but had held a licence in Barcelona for a period of 8 years and had never received a complaint against them. They were a family man with a wife and two young children.

The licence holder provided their version of events and told the Panel that they had arrived at a property in Stalybridge in the early hours of 23 January 2022 for a pre-paid fare of £40 to take someone to a property in Bury. They spoke from their vehicle to an occupant of the property who was smoking out of an upstairs window. A young lady then exited the property and approached the vehicle, she spoke to the licence holder through the open driver's window about the booking and destination. The licence holder denied negotiating a fare of £10 to take her to Hyde and explained to the Panel that they would not turn down a pre-booked and pre-paid fare of £40 in order to do this. They explained that they had told her to go to the other side in order to get her out of the road and she was very close to the vehicle. They denied that the assault took place as they claim she did not enter the vehicle and explained that it was common practice for the rear doors of the vehicle to be locked.

The licence holder said that they had accidentally cleared the pre-booked job for Bury from their PDA after driving away from the property; they then contacted their taxi operator on the phone to have the job reinstated. During this time, the licence holder encountered a female on the corner of the road who waved at their taxi. They stopped and asked them where they were going and they replied Bolton. They advised them it was not their taxi as they were going to Bury. After the original job was reinstated, the licence holder returned to the property to collect the fare and drove them to Bury. They said they had limited conversation with the customer for the duration of the journey but that she was safe and appeared comfortable. They queried why she would enter the vehicle to be taken to Bury if she believed her friend had been sexually assaulted.

With regards to the CCTV footage, the licence holder disputed that the noise was the sound of their front passenger door opening and closing as the same noise can be heard on numerous occasions throughout the duration of the footage. Their legal representative requested that during the Panel's deliberations the CCTV footage be viewed on a mobile phone, as the audio was clearer on a device.

Having heard the licence holder's case, the Panel, the complainant and the Licensing representatives were provided with the opportunity to ask questions. During questioning the CCTV footage was viewed again.

At this juncture the licence holder, their legal representative, the complainant, the complainant's Mother, the Regulatory Services Manager (Licensing) and the Regulatory Compliance Officer (Licensing) left the meeting whilst the Panel deliberated on the review. The Legal Representative for the Council and the Senior Democratic Services Officer remained in the meeting to give legal and procedural advice and took no part in the decision making process.

In determining the review, the Panel considered all of the information presented at the hearing in addition to the report and appendices submitted in advance of the hearing. They further considered relevant statute and case law and the Council's *Convictions Policy (Policy & Guidelines relating to the Application of the "Fit and Proper Test" to Licensed Drivers and Operators)*.

Before they commenced with their deliberations, the Panel viewed the CCTV footage again on a mobile phone as requested by the licence holder's legal representative as he had stated that the audio of the footage was clearer on a mobile phone.

The Panel noted that there had been an allegation of sexual assault made against the licence holder during the early hours of 23 January 2022. They acknowledged that they had a duty to ensure the safety of the public within the Borough and took allegations of sexual assault very seriously.

The Panel discussed the CCTV footage and noted that when the claimant attempted to open the rear door on the driver's side of the vehicle, the licence holder can be heard saying something that sounded like "try the other side". The complainant can then be seen walking to the rear door on the passenger side of the vehicle and asking a question which sounds like "will it charge my card?" The complainant then walks in the direction of the front passenger side of the vehicle, which is out of

view of the CCTV. A noise can then be heard, which sounds like a car door opening and closing before the car drives away.

The Panel considered the oral representations made by the licence holder and the complainant. The Panel acknowledged that there were discrepancies in the version of events.

The Panel noted that the matter was still being investigated by Greater Manchester Police and they were privy to information that further CCTV footage had been requested as part of the Police investigation. The Panel also noted that the licence holder had been granted bail by Greater Manchester Police with no conditions attached.

After carefully considering all the evidence and oral submissions in this matter the Panel decided that the licence holder's licence be suspended for a period of 3 months with immediate effect pursuant to section 61(2B) Local Government (Miscellaneous Provisions) Act 1976 as it was deemed necessary for public safety. It appeared to the Panel that in the interests of public safety the suspension should have immediate effect for the following reasons:-

- An allegation of sexual assault had been made against the licence holder.
- The Panel determined that the licence holder's ability to be considered a fit and proper person had been called into question.
- A sanction of suspension would serve as a deterrent against future misconduct by the licence holder.

The decision under section 61(2B) to suspend the licence with immediate effect would remain in force pending the outcome of any appeal.

The Panel was of the view that the sanction imposed was appropriate and proportionate having regard to all the circumstances of this matter and having regard to the Council's adopted policy.

RESOLVED

That the licence holder's licence be suspended for a period of 3 months with immediate effect in the interests of public safety.

25. DATE OF NEXT MEETING

RESOLVED

That the provisional date of the next meeting of Speakers Panel (Licensing) scheduled for 14 June 2022 be noted.

26. URGENT ITEMS

There were no urgent items.

CHAIR