

North Yorkshire Council

General Licensing and Registration Sub-Committee

Minutes of the meeting held on Tuesday, 24th October, 2023 commencing at 1.30 pm.

Councillors present: Felicity Cunliffe-Lister, Tim Grogan and Andy Solloway.

Officers present: Tim Chadwick, Licensing Manager; Emma Hayton, Assistant Licensing Officer, Laura Venn, Legal Manager (Deputy Monitoring Officer); and Jonathan Lindley, Care and Support Team Manager .

Copies of all documents considered are in the Minute Book

64 Election of Chair

The decision:

That Councillor Tim Grogan be elected as Chair for the duration of the meeting.

(Councillor Grogan in the Chair)

65 Apologies for Absence

There were no apologies for absence.

66 Disclosures of Interest

There were no declarations of interest.

67 Procedure for Meeting

The decision:

The Sub Committee agreed the procedure for the meeting as outlined by the Chair.

68 Exclusion of the Press and Public

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of item 6 on the agenda on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act as the Sub-Committee was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

69 Consideration of the suitability of a licence holder to continue to hold a hackney carriage driver licence

The subject of the decision:

The Corporate Director – Environment asked the Sub-Committee to consider whether a licence holder (“D”) was a fit and proper person to continue to hold a hackney carriage driver licence.

Alternative options considered:

The Sub-Committee considered all of the options as set out in the officer’s report but, having concluded that D was not a fit and proper person to hold a hackney carriage driver licence, the only suitable option was to revoke D’s licence.

The Sub-Committee was not satisfied that any of the alternative options, including issuing a warning or suspension, would adequately serve the interests of the public and address the concerns raised.

The reason for the decision:

The Sub-Committee considered the Corporate Director’s report including written and oral representation from the Council’s Health & Adult Services, the oral and written representations of D, Craven District Council’s Hackney Carriage and Private Hire Licensing Policy, North Yorkshire Council’s Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Sub-Committee was informed that Health & Adult Services had contacted the Licensing department following concerns raised regarding the financial circumstances of a member of the public (“P”). The Sub-Committee was informed that P has physical and mobility issues and a dementia condition. In February 2023 the family of P had contacted Health & Adult Services after reviewing P’s financial information and noting a depletion of P’s funds over recent years and a bequest in her will to D. The Sub-Committee was informed that the concerns were in relation to a number of large cash withdrawals from P’s bank account in 2020 and 2021. A number of large sums ranging between £700 and £1000 had been withdrawn over that period of time totalling £18,000. Health & Adult Services officers were informed by P’s family that they had been told by the bank that P had been accompanied by a male when making the cash withdrawals. P’s family also informed Health & Adult Services officers that they had also found a thank you card from D at P’s house within which D had thanked P for financial support for eye surgery.

Health & Adult Services wrote to D asking for a meeting in order to better understand the concerns raised. Within a week of the letter being sent, D had met with Health & Adult Services over three separate occasions and had handed over cash totalling £28,000 that he had originally received from P in cheques in 2017 and 2019.

D informed the Sub-Committee that he had first met P around 2016 when she had made a taxi booking. D stated that, following that trip, P had telephoned his house requesting that he visit her at her home and during that visit requested his business card. P lived alone and thereafter P would regularly book D to take her out for drives. D informed the Sub-Committee that P had also rung him when she thought someone was on her roof. D informed the Sub-Committee that P had given him three cheques totalling £28,000 between May 2017 and February 2019. D stated that the cheques were given to him as P wanted to help D buy a new car (£15,000 in 2017 and a further £10,000 in 2019) and as advance payment for taxi services (£3,000 in 2017). D stated that he told P at the time that he didn’t want a new car and that he tried to refuse to accept the cheques but that P was insistent.

D informed the Sub-Committee that he paid all three cheques into his business account with a view to safe keeping as he believed P was vulnerable. D stated that, despite the advance £3,000 payment P had made for taxi fares, P sought to pay D in cash after

journeys. D informed the Sub-Committee that, after receiving the £3,000 cheque, he would tell P that she had already paid but that P was often insistent and he felt he had to take the cash payment. D informed the Sub-Committee that, on other occasions, P would tell him that she had no money and he would take nothing from her. D also told the Sub-Committee that P would put money in a birthday card for him and he would reduce the taxi fare by the same amount. D stated that he continued to provide taxi services for P until he lost contact with her around May 2022. D stated that he did not know about the large cash withdrawals made by P in 2020 and 2021 and that he had not driven her to a bank during that time.

D denied ever receiving money for eye surgery from P and contested the existence of the thank you card that P's family had claimed they had found at P's house. The Sub-Committee noted that a thank you card was not produced to Health & Adult Services and therefore did not make a finding of fact in this regard.

D stated that he had noticed P's memory deteriorating and that she had become unkempt during the time that he had known her. He told the Sub-Committee that he had taken her out in his vehicle over the summer of 2020, despite Covid-19 restrictions, in order to help cool her down during the heatwave and similarly had taken her out in the winter to keep her warm.

D stated that, after paying the cheques into his account, he withdrew each amount in small withdrawals as he thought there would be tax implications if he left it in his business account. D then proceeded to hide the cash around his house and latterly exchanged any old style £20 banknotes with the new style in small amounts. D informed the Sub-Committee that he had intended to return the money to P or P's family but that she was taken into a care home and he didn't know how to contact her or her family. D told the Sub-Committee that he knew one of P's friends but was unable to see her due to his working pattern and his commitments for caring for family members. D told the Sub-Committee that he knew he shouldn't have accepted the money but, as time passed, he felt he was unable to speak of the matter to other people. D stated that when he received the letter from Health & Adult Services he was relieved as it offered a solution. D stated that he did not spend any of the £28,000 that was given to him by P as he did not feel as though it was his money.

The Sub-Committee noted that, during the course of meetings with Health & Adult Services, D had provided calculations which he said demonstrated that he had transported P four times a week for four years at a cost of approximately £40 per journey, amounting to an approximate total of £30,000 in fares. D informed the Sub-Committee that he did not put in place any measures to record the details of any journeys or fares paid.

The Sub-Committee also noted that, according to Health & Adult Services, D acknowledged that he should not have taken the money in advance of bookings; D had informed P at the time that he didn't want or need her money; D wanted to return the money so he had a 'clean slate'; D wanted to relinquish any claim on P's estate; and D wanted to apologise to P's family and explain his actions.

D stated that he had not seen P's will to know if he was a beneficiary. The Sub-Committee noted that Health & Adult Services had recorded D stating that P had informed him of her intention to include D as a beneficiary in her will and he did recall her mentioning that she had visited her solicitors but D was not sure whether P had made any such arrangements. The Sub-Committee noted that D subsequently informed Health & Adult Services that, if he was named in P's will, that he wanted to relinquish any claims on her estate.

D told the Sub-Committee that his working pattern and circumstances in his personal life, including caring for a family member, meant that he did not have time to seek to return the money to P via her family or the care home. D informed the Sub-Committee that the

pressures of his personal life had prevented him from thinking clearly and that, in hindsight, he should have informed the Licensing Authority that P had given him the money and stopped direct contact with P.

The Sub-Committee made the following findings from D's evidence:

- D was aware that P was a vulnerable passenger in terms of her physical and mental abilities.
- D accepted three cheques from P amounting to a total of £28,000. D confirmed that £25,000 of this total was for purposes not related to taxi fares and D was aware that he should not have accepted these payments.
- Having paid the cheques into his bank, D withdrew the full amount in small cash withdrawals and hid the cash around his house. Some time later, D exchanged any old-style £20 banknotes with new notes. D insisted that he had cashed the cheques initially for safe keeping as he believed P was vulnerable. D also claimed not to have the capacity or the time to seek to return the money to P via her family or her care home.
- D accepted cash payments for some (but not all) taxi fares in addition to the payments already received.
- D did not maintain any records to reflect the fares charged by D or any payments made by P.
- D made a conscious effort to withdraw funds from his business account in order to ensure that the presence of those funds did not have any tax implications.

Having considered the evidence from D, the Sub-Committee concluded that D had accepted payments amounting to £28,000 from a vulnerable person, the vast majority of which was for purposes other than the payment of taxi fares. The Sub-Committee did not accept D's claim that P's cheques were cashed for safe keeping purposes. The Sub-Committee was satisfied that D took active steps to hold P's money in a safe place known only to him and that he had carefully and purposefully made arrangements via a significant number of transactions to convert P's cheques into cash. The Sub-Committee noted that the reason D gave for withdrawing the cash from his business account was to avoid arousing suspicion from HMRC. The Sub-Committee concluded on the balance of probability that this was the motivation behind D's subsequent financial transactions. The Sub-Committee was also satisfied that, if any of the payments received were in respect of taxi fares, they should be open to scrutiny by HMRC. The Sub-Committee was concerned that D had sought to conceal income from the relevant authorities.

The Sub-Committee was satisfied that D had taken no action to attempt to return any money to P or her family at any time. In light of the time and effort spent by D to withdraw and convert the money received, the Sub-Committee did not accept D's claim that he did not have time to seek to return P's payments via her family or her care home.

The Sub-Committee concluded that D had not put in place any measures to record fares charged or payments made in respect of taxi journeys involving P. The Sub-Committee did not consider that D's approximate, retrospective calculations could accurately record P's payments or demonstrate that appropriate fares were charged.

The Sub-Committee was also concerned that D had failed to inform any authority of P's vulnerability, particularly in respect of her finances despite his apparent own concerns about her welfare.

The Sub-Committee was satisfied that D was aware that his actions were improper and inappropriate, however, it acknowledged that D had shown remorse throughout the investigations by Health & Adult Services and the Licensing department. However, the Sub-Committee concluded that D failed to take reasonable steps to ensure the protection of a vulnerable passenger over a prolonged period of time.

The Sub-Committee was sympathetic to D's personal circumstances and had regard to a thank you letter and two character references provided in support of D. The Sub-Committee was satisfied that D would have had positive experiences with other individuals in differing circumstances. However, the Sub-Committee was satisfied that D had exercised and sustained poor judgement when dealing with a vulnerable person throughout this experience.

The Sub-Committee noted that, in accordance with the Council's Policy, licensed drivers are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them. The Sub-Committee had serious concerns about D's character in this regard and, in the interests of public protection, the Sub-Committee concluded, on the balance of probability, that D was not a fit and proper person to hold a hackney carriage driver licence.

The decision:

The Sub-Committee resolved to revoke D's licence in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting concluded at 3.40 pm.