Present: Councillors Ekins (Chairman), Bone and Maguire

Also present: Mrs A Wilcox (Principal Environmental Health Manager), Mr M O’Donnell (Team Leader Health Protection) Mrs A Walton-Miller (Legal Adviser/District Law) and Mrs C A Mundy (Democratic Services Officer).

The meeting commenced at 10.30am.

1. **APPOINTMENT OF CHAIRMAN**

   RESOLVED that Councillor Ekins be appointed as chairman for this sub-committee.

2. **DECLARATION OF INTEREST**

   There were no declarations made.

3. **EXCLUSION OF PRESS AND PUBLIC**

   RESOLVED that the press and public be excluded from the meeting during consideration of the following items in accordance with section 100A(4) to the Local Government Act 1972 on the grounds that they would involve the likely disclosure of exempt information of the description shown in schedule 12A to the Act.

4. **APPLICATION TO REVOKE OR SUSPEND PRIVATE HIRE DRIVER’S LICENCE**

   The annexed circulated exempt report of the director of place and strategic growth was received in relation to a potential revocation, suspension or addition of conditions to a private hire driver’s licence for Mr B.

   The chairman welcomed the licence holder, who was accompanied by two members of his family, to the meeting and everyone present introduced themselves.

   The Principal Environmental Health Manager, Mrs Wilcox, presented the report and findings to the sub-committee.

   She explained that the licence holder had contacted the office on 7 November 2019 and had informed the licensing officer that he had experienced a serious health issue on 15 August 2019, from which he was now recovered. The licence holder had failed to notify the council of his medical condition until eight weeks
after the incident which was contrary to the council policy, which requires immediate notification.

Council policy also states the following:

‘The council follows guidance from the Department of Transport Taxi and Private Hire Vehicle Licensing which states that each applicant for the grant of a driver’s licence will be required to undergo a medical examination to the ‘group 2’ standard to assess their physical and mental fitness to drive a licensed vehicle. The licence holder had passed the group 2 requirement at his last medical assessment but a driver needed to remain compliant throughout the life of their licence to show they remained a ‘fit and proper’ person.

The Driver and Vehicle Licensing Authority document - ‘Assessing fitness to drive – a guide for medical professionals’ states that the group 2 standard for drivers who have suffered from an illness like the licence holder is as follows:

‘A licence holder must not drive and must notify the DVLA. A licence will be refused or revoked for one year following a stroke or TIA. Re-licensing after one year may be considered if:

- there is no debarring residual impairment likely to affect safe driving;
- there are no other significant risk factors. Licensing may be subject to a satisfactory medical report, including results of exercise ECG testing. If the condition is central venous thrombosis or there is imaging evidence of less than 50% carotid artery stenosis and there is no previous history of cardiovascular disease, a licence may be issued without the need for functional cardiac assessment. Patients with recurrent TIAs or strokes will be required to undergo functional cardiac testing.”

Mrs Wilcox also referred to the council’s policy which states that:

- a driver must cease driving any licensed hackney or private hire vehicle and inform the council immediately they become aware of any medical condition which may affect their driving ability and/or the health and safety of themselves or their passengers.
- the following medical conditions must be notified to the council, in writing, as soon as reasonably practicable:
  - Heart condition;
  - Deterioration of eyesight or hearing;
  - Abnormal blood pressure;
  - Alcohol or drug dependency;
  - Diabetes;
  - Mental or psychological disorders;
  - Epilepsy;
  - Serious physical injury or disability;
  - Sudden attacks or giddiness or fainting;
  - Any other condition affecting the ability to drive
The sub-committee needed to determine whether the licence holder remained a ‘fit and proper’ person to hold a licence, taking into consideration that the group 2 medical standard states that 12 months should elapse following his type of illness before re-licensing should be considered and also the fact that the licence holder had failed to immediately notify the council of his medical condition in accordance with council policy.

The licensing authority’s key objective is to ensure public safety and council policy reflects this overriding concern. If there is any doubt about the suitability of an individual to be licensed, the committee should be mindful of the need to protect the public and caution should be exercised.

The four licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- prevention of public nuisance;
- the protection of children from harm

Mrs Wilcox also passed to the sub-committee a copy of a medical report recently obtained by the licence holder for their information.

The chairman thanked Mrs Wilcox for her report and asked the licence holder to explain what had happened to him, whether there were any lasting issues and why he had failed to inform the council.

The licence holder explained what had happened on 15 August and that following admission to hospital he’d had an operation before being discharged from hospital. He had subsequently made a good recovery. After a few weeks he had been informed by his consultant that he was fit to drive again, his consultant was aware of his profession and had confirmed he could return to work as a professional driver.

It was only when his insurance company suggested that he check with the council that he was fit to drive as a professional driver that he found that there was a policy in place whereby a professional driver had to comply with the group 2 standard which he thought, as did his consultant, was for HGV drivers.

He had not been aware of the council’s policy whereby he needed to notify the council of the sort of illness he had, which was not specifically listed in the policy.

Mrs Wilcox clarified that the group 2 standard was in Wellingborough’s policy but that it was common practice for council licensing policies generally to include the DVLA group 2 standard for professional drivers.

With regard to the medical conditions listed in 2.5 of the policy, consideration could be given to specifying all conditions, but it was thought that ‘any other condition affecting the ability to drive’ was adequate.
Members raised a couple of queries for the purpose of clarity.

The chairman asked the licence holder if he wished to add anything further and whether he considered he’d had a fair hearing. The licence holder confirmed he had, but felt that hospital consultants should be made aware of the position with regard to professional drivers having to comply to group 2 rather than group 1 as he had been advised by his consultant that he could return to work as a professional driver. He would be writing to his consultant to bring it to her attention for future reference.

The chairman adjourned the meeting at 11am.

The chairman reconvened the meeting at 11.25am.

**Decision**

**RESOLVED** that the private hire driver’s licence remain suspended until expiry on 31 December 2019;

**Reasons for decision:**

The sub-committee considered the paperwork prepared by Amanda Wilcox, the council’s policy and also heard from Mr B in person. The sub-committee also considered the recent medical report of Dr Pasquali which states that Mr B still has problems with dexterity in his right hand and that, with regard to his ability to carry on driving, if his licence falls into group 2, he is not fit to drive for up to a year after his illness. The licence does fall into group 2.

The sub-committee needed to be satisfied that Mr B remained a fit and proper person to continue to hold a licence. The council’s policy states that a licence will be refused for one year following this sort of illness. Mr B admitted he was under medical attention for four weeks. Having considered all the facts the sub-committee found there was no reason to depart from the policy and took the decision to suspend the current licence which expires in December 2019 and informed Mr B that he could reapply again after 15 August 2020.

Mrs Walton-Miller advised the licence holder that he had 21 days in which to appeal the decision to the Magistrates Court.

This part of the meeting concluded at 11.30am and the licence holder left the meeting.

5. **APPLICATION TO REVOKE OR SUSPEND PRIVATE HIRE DRIVER’S LICENCE**

The annexed circulated exempt report of the director of place and strategic growth was received in relation to a potential revocation, suspension or addition of conditions to the private hire driver and vehicle licences for Mr A.
The chairman welcomed the licence holder to the meeting and everyone introduced themselves.

Mrs Wilcox presented the report to the sub-committee.

She explained that the licence holder held both a private hire driver’s licence, granted on 8 February 2019, and a private hire vehicle licence, granted on 26 September 2019. A complaint had been received regarding inappropriate behaviour by the licence holder whilst working as a private hire driver, which may affect the decision as to whether he remained a fit and proper person to hold such licences as prescribed by the Local Government (Miscellaneous Provisions) Act 1976.

The complaint had been made on 28 October 2019 and related to allegations of a predatory nature towards a lone female passenger. Due to the seriousness of the allegation both licences had immediately been suspended whilst an investigation was undertaken. Such suspension remained in place.

Appended to the report were the following:

Appendix 1 – Statement from the complainant;
Appendix 2 – Statement from Mr O'Donnell, Team Leader Health Protection;
Appendix 3 – Statement from Mr Powell, Health Protection Officer;
Appendix 4 – Statement from police sergeant

A statement was taken from the complainant who had, during the journey, recorded some of the conversation between her and the driver. She had initially contacted a police officer who had also provided a statement.

Such recordings had been played to the licence holder to obtain his version of events, and this is contained in the statement appended hereto. Statements from two of the investigating officers were also appended to the report. The recordings were also played to the sub-committee.

The sub-committee needed to ascertain whether the licence holder remained a ‘fit and proper’ person to hold a licence, taking into consideration the allegations made against him.

The licensing authority’s key objective is to ensure public safety. If there is any doubt about the suitability of an individual to be licensed, the sub-committee needed to be mindful of the need to protect the public and caution should be exercised.

The four licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- prevention of public nuisance;
- the protection of children from harm
Mr O’Donnell played the recordings to the sub-committee.

The chairman thanked Mrs Wilcox and Mr O’Donnell and addressed the licence holder asking him to tell the sub-committee what he considered had happened on the night in question.

The licence holder explained that he had picked up two people in Wellingborough and had taken them to Earls Barton, which was a booked trip, the male passenger had asked to be taken to the village centre to use the cashpoint; he became abusive and kicked the licence holder’s car prior to being dropped off at home. The female passenger asked to be taken to her home in Finedon.

The chairman asked if this journey had been booked with the operator. The licence holder clarified that he had not done so as he had turned off his PDA as his shift was finished.

The licence holder said that the passenger had been talking to him throughout the journey and asked if he had a cigarette. He didn’t have any but offered to stop at a garage to purchase some.

The chairman asked if the licence holder or passenger had smoked a cigarette during the journey. The licence holder said that smoking was not allowed in a vehicle, so neither had a cigarette during the journey, but he had given the passenger two for when she got home. The passenger had been drinking and he offered to buy her a drink of water or coffee but she declined such offer. She said she needed to go to a cashpoint and he stopped at the newsagent in Church Street, Finedon where she got out of the car to get some cash. When the passenger returned to the car he drove further down the road to turn around – he then said that the car stalled as it had an automatic on/off ignition. He then took the passenger to her home.

Members rigourously questioned the licence holder on his comments, these included the following:

Q: Why when travelling from Earls Barton to Finedon did you not take the quickest and most straight forward route?

A: The licence holder considered that he had done so by exiting the A45, travelling down Doddington Road, through the town centre to Finedon Road.

Q: The recordings clearly indicate the passenger persistently saying that she wished to be taken home and that she did not want a drink, why did you fail to take her straight home as she requested?

A: The licence holder said that the passenger had asked for a cigarette and to stop at a cashpoint.

Q: Why after stopping at the cash point did you drive to a dead end to turn round when there was an alternative route and why did you turn off the engine?
A: the licence holder said he had considered that it was easier to turn round than choose a different route; he had not turned off the engine it had stalled.

Q: Why did you agree to take the passenger to Finedon as this was clearly a breach of your licence as it was not pre-booked and there was no rate agreed in advance?

A: The licence holder said that he had informed the passengers that the ‘round trip’ would be £30. He had not informed the operator as he was going to visit a friend in Finedon following the end of his shift.

Q: With regard to the abusive behavior of the male passenger did you report this incident or make a complaint to the police about the damage to your vehicle?

A: The licence holder said that this behavior was not unusual and frequently happened and that there was little point in reporting.

Q: Have you read the licensing policy?

A: He confirmed that he had but did not understand it all.

Q: Have you ever held a taxi licence before?

A: The licence holder clarified that this was his first licence.

The chairman addressed the licence holder and expressed his concern over the anomalies and inconsistency in his responses. There were a number of breaches to his licence including the following:

- No log of the trip;
- No rate given for the cost of the journey;
- This was an illegal journey;
- Undertaking this journey would have compromised the car insurance;
- Inappropriate behavior;
- Undue pressure put on the passenger;
- Stopping of the vehicle was inappropriate;

The chairman asked Mrs Wilcox and Mr O'Donnell if they had any questions.

Mrs Wilcox asked how the licence holder knew how much the passenger had taken out of the cash machine. The licence holder said that at the commencement of the journey from Wellingborough to Earls Barton he had informed the passengers that a round trip to include Finedon would be £30. She had given him £10 when she got back in the car that she had taken from the cashpoint.
Mr O'Donnell questioned the licence holder on a number of inconsistencies over what he had said in his statement and what he had told the sub-committee particularly around the fact that initially he had said he couldn’t remember what had happened and that now he was saying that he could remember. He also asked the licence holder why he considered his predatory behaviour to be acceptable. The licence holder said that during the journey the passenger had been nice and friendly and had asked him questions about his life and he felt he was being polite and friendly to her in return.

There being no further questions the chairman asked the licence holder if he considered that he’d had a fair hearing. The licence holder said he had but asked the sub-committee to give him another chance and not revoke his licences.

The chairman adjourned the meeting at 12.40pm.

The chairman reconvened the meeting at 12.55pm.

Decision

RESOLVED that:

(i) the decision of 28 October 2018, to suspend both the private hire driver’s licence and private hire vehicle licence, with immediate effect, be upheld;
(ii) both the private hire driver’s licence and private hire vehicle licence be revoked with immediate effect.

Reason for immediate effect:

The sub-committee was of the view that the decisions should take immediate effect as Mr Ai, having demonstrated persistent predatory behavior towards a lone female, as well as a blatant disregard for licensing policies and procedures, was a risk to public safety. Accordingly it determined that its power under S61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 should be exercised.

Reasons for decision:

The sub-committee considered all the material provided in the report of the Health Services manager which included witness statements from the complainant, Matthew O'Donnell’s interview with Mr A, Tony Powell and Beth Curlett.

The sub-committee listened to three voice recordings of conversations between the complainant and Mr A that the complainant had recorded during the incident. In each recording the complainant can be heard repeatedly asking Mr A to take her home and Mr A can be heard offering the complainant a drink, the sub-committee considered this behavior to be persistent and predatory.
The sub-committee also heard from Mr A in person in relation to the incident. He advised the sub-committee that the journey between Earls Barton and Finedon was not pre-booked and was not logged with his operator; the information provided by the operator supports this. The applicant stated that his PDA was not working properly and that he had been unable to contact his operator due to the late hour, he also stated that his PDA frequently malfunctions. Mr A admitted that he stopped to purchase cigarettes for his customer yet admitted that he took no money from the complainant for them; he admitted that he was a smoker and admitted that he stopped the vehicle for a second time during the journey. Mr A was unclear about the fee for the journeys and it was evident that no fee had been agreed in advance for the journey between Earls Barton and Finedon. The sub-committee was extremely concerned that the version of events presented by Mr A today was inconsistent with the statement he had provided and signed on 11 November 2019.

The sub-committee takes all complaints very seriously and having considered all of the evidence before it, was satisfied that he had put undue pressure on the complainant and had shown predatory behavior towards a lone female. The sub-committee therefore upholds the local authority's decision of 28 October 2019 to suspend Mr A's licenses on public safety grounds.

In addition, Mr A has admitted that he had not logged the journey with his operator, had not agreed the fare with the passenger in advance, was working with faulty equipment, had stopped the vehicle to purchase cigarettes whilst leaving a passenger in his vehicle, had potentially through his actions compromised his insurance cover, and had demonstrated an overall lack of regard for the council's licensing policies and procedures and a serious disregard of the obligations of a taxi driver.

Taking into account all factors the sub-committee was satisfied that Mr A was no longer a fit and proper person to hold a taxi licence and the decision was taken to revoke Mr A's private hire driver's licence and private hire vehicle licence with immediate effect.

The legal adviser informed the licence holder of his right to appeal the decision withing 21 days to the magistrate’s court.

Chairman

The meeting concluded at 1pm.