

**LICENSING COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN on 10 NOVEMBER 2010 at 5.30pm**

Present: Councillor E W Hicks – Chairman (throughout).
Members present for hearing at 6.30pm: Councillors J E Hudson, D J Morson and D G Perry.
The following Members attended the meeting from 7.30pm:
Councillors E L Bellingham-Smith, J E Hudson, J I Loughlin, D J Morson and J A Redfern.

Officers in attendance: Murray Hardy (Licensing Officer), Michael Perry (Assistant Chief Executive - Legal) and Catharine Roberts (Democratic Services Officer).

LC43 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest in relation to this part of the meeting.

LC44 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information within the meaning of s.100 I and paragraph 1 of Schedule 12A Local Government Act 1972.

LC45 DETERMINATION OF A JOINT HACKNEY CARRIAGE/ PRIVATE HIRE DRIVER'S LICENCE

The Assistant Chief Executive - Legal informed the meeting that the driver in this case was absent as his grandfather had only hours to live.

The Assistant Chief Executive - Legal had re-scheduled the case for 23 November 2010.

LC46 DETERMINATION OF A HACKNEY CARRIAGE AND A HACKNEY CARRIAGE/ PRIVATE HIRE DRIVER'S LICENCE

Neither the driver nor any representative for him appeared in this case and no communication was received in this regard. The Panel delayed consideration of the matter for some minutes before continuing in the absence of the driver.

The Committee considered the report of the Assistant Chief Executive - Legal which informed the meeting that a serious road traffic accident had occurred on 17 October 2010 involving a hackney carriage licensed by

Uttlesford and driven by a hackney carriage/private hire vehicle driver also licensed by Uttlesford.

The report added that the driver had indicated that he would be pleading not guilty if charged with offences of careless driving and/or failing to stop and report an accident. However, due to the circumstances of the incident the Assistant Chief Executive - Legal was not satisfied that the driver was fit and proper to hold a licence and he considered that the licence ought to be suspended with immediate effect in the interests of public safety followed by referral of the matter to a committee as soon as reasonably practicable for consideration.

The Assistant Chief Executive - Legal had taken the view that if the driver was prosecuted for and convicted of the offences for which he had been bailed he would most probably receive no less than 6 points endorsed on his licence. Under the council's licensing standards a driver with 6 points or more on his or her licence for a single motoring offence would not normally qualify for a licence and a licensed driver who received such an endorsement would normally have the licence revoked.

Where a driver failed to meet the licensing standards the safety of the public might be at risk. At the time of writing the report the driver had been on bail for two potentially serious motoring offences conviction of either of which might lead to the revocation of his licence. He also had no training as to how to deal with confrontational situations or how to react in circumstances where he believed he might have been involved in an accident. In the circumstances an immediate suspension of his licence was necessary in the interests of public safety and the Assistant Chief Executive - Legal had suspended the licence until midnight on 10 November 2010 to give the committee the opportunity of considering whether to suspend the licence with immediate effect further in the interests of public safety.

The Assistant Chief Executive Legal continued, however, that whilst the injuries had been presented as life-threatening and the press article had alluded to hit and run, matters had since then moved on. No prosecution of the driver was now contemplated and he had been discharged from police bail. Although the casualty's injuries were originally considered life-threatening he had now been discharged from hospital and whilst he would require further treatment he was expected to make a full recovery.

Information received from the police after their investigation supported the driver's version of events. The casualty and another male had flagged down the driver's car in Pines Hill Stansted. An argument had ensued when some damage had been caused to the vehicle. The police stated that the casualty had climbed onto the bonnet of the driver's vehicle and fell hitting his head on the kerb as the driver pulled away slowly. When the driver was interviewed by the Assistant Chief Executive - Legal he did not mention this latter fact although his brother, who accompanied him to the interview suggested that it might have happened.

In the light of the conclusion of the police investigation the Assistant Chief Executive - Legal suggested that the option of suspension might no longer be appropriate but that members should take a view as to whether they were satisfied that the driver was a fit and proper person to hold a licence. If members were so satisfied no action would be required, but if they concluded that the driver was not a fit and proper person then they should resolve to revoke the driver's licence for any other reasonable cause. In that case, if members considered it necessary in the interests of public safety, they could resolve that the revocation should have immediate effect.

The Assistant Chief Executive -Legal answered questions from Councillor Perry about the condition of the injured person and gave details of two incidents on the night in question when the relevant two boys had misbehaved at Newport Station and towards a different taxi driver within a period of time from 11.30pm to 3:00am. They were to be interviewed by the police in connection with these incidents.

The Assistant Chief Executive - Legal stressed that the purpose of a suspension would have been punitive which in the light of the further developments might be inappropriate. In answer to further questions he said that the driver had been vague as to whether the boys were climbing on the car; it was clear however that the driver had not behaved as appropriate in an accident involving serious injury. The damage to the car had not been inspected.

A question was raised whether the driver's language skills were adequate for his job. The Assistant Chief Executive - Legal thought he had an adequate understanding of destinations, fares and the use of "to" and "from". His brother who supported him at the interview, had better language skills. The Licensing Officer added that the driver was arrested on suspicion of the road traffic offences and the vehicle had been seized and kept for two weeks but had now been returned.

Councillor Perry asked about the speed of the vehicle as the driver drove off and it was confirmed that the driver and one of the youths said the speed had been low.

The Assistant Chief Executive - Legal agreed in answer to Councillor Morson that the other youth was probably the main source of the police evidence in view of the late hour.

Councillor Hudson questioned whether the driver realised the boy had climbed onto the bonnet.

Councillor Hicks thought the most important question was whether the behaviour of the driver after the incident was appropriate.

The members of the Panel then deliberated upon their decision and the Assistant Chief Executive - Legal took no further part in the deliberation or decision save to advise Members at their request about a matter of law; that the reporting of an accident came into the Highway Code

RESOLVED that the driver's licence be revoked with immediate effect and the vehicle licence be suspended for the following reasons:-

"On 1 November 2010 Mr Perry, the Assistant Chief Executive - Legal under his delegated powers suspended the joint private hire/hackney carriage driver's licence of the driver with immediate effect in the interests of public safety. The reasons for his decision are set out in his report presented to the committee this evening. The report was prepared on the basis that the driver was on police bail having been arrested for suspected offences of careless driving and failing to stop and report an accident. The intention behind the report was for members to consider whether to extend the suspension pending determination of the police investigations. However Mr Perry has informed members this evening that matters have since moved on. No prosecution of the driver is now contemplated and he has been discharged from police bail. Members have also been informed that although the casualty's injuries were originally considered life-threatening he has now been discharged from hospital and whilst he will require further treatment he is expected to make a full recovery.

Information received from the police after the conclusion of their investigation largely supports the driver's version of events. The casualty and another male flagged down the driver's car in Pines Hill Stansted. An argument ensued when some damage was caused to the driver's vehicle. The police state that the casualty climbed onto the bonnet of the driver's vehicle and fell hitting his head on the kerb as the driver pulled away slowly. When the driver was interviewed by Mr Perry he did not mention this latter fact although his brother, who accompanied him to the interview suggested that this "may" have happened.

In the light of the conclusion of the police investigation Mr Perry suggests that the option of suspension may no longer be appropriate but that members should take a view as to whether they are satisfied that the driver is a fit and proper person to hold a licence. If members are so satisfied, Mr Perry says that no action would be required as the suspension he imposed ceases at midnight and the driver can collect his badge and plate and recommence work as a private hire/hackney carriage driver tomorrow. However if members conclude that the driver is not a fit and proper person then members should resolve to revoke his licence for any other reasonable cause. In that case if members consider it

necessary in the interests of public safety they may resolve that the revocation should have immediate effect.

Although the police are not bringing any charges as a result of the incident members have grave concerns that the driver was involved in an accident which had serious consequences and failed to behave appropriately in the circumstances. The driver must have been aware that the casualty had fallen from the bonnet of his car. He did not stop to ascertain whether the casualty had suffered any injuries at the time. Further he passed the scene of the accident some 25 minutes later when the police and ambulance services were in attendance. He did not stop to ascertain whether this presence was as a result of the incident he had been involved with earlier, which in all probability it must have been, nor to enquire as to the extent of any injuries suffered. The fact that the driver telephoned his cousin and asked him to make enquiries shows that the driver did believe that his actions were the reason the police and ambulance were there. However he did not himself take any steps to report the accident until his arrest.

The driver has not had any training as to how to react in confrontational situations nor how to behave if he believes that he may have been involved in an accident. The fact that the driver has failed to behave appropriately in circumstances where he was involved in a conflict and knew he had been involved in an accident, no matter how minor he may have assumed the accident to be, goes to the issue of whether he is a fit and proper person.

The driver maintains that his mobile telephone did not permit emergency calls. Had the driver been equipped with a telephone which did make such calls he could have called the police for assistance. The sight of the driver making a call could of itself have deterred his attackers.

For these reasons members are not satisfied that the driver is a fit and proper person to hold a licence and his driver's licence is therefore revoked.

The driver's failure to stop following his involvement in an accident could have delayed the arrival of the emergency services with potential dire consequences. His lack of training and awareness as to how to behave in difficult circumstances could have serious implications for public safety and members are therefore of the view that it is in the interests of public safety that the revocation of the licence should have immediate effect.

Should the driver apply in future for a driver's licence from this authority members will expect him to demonstrate that he has had appropriate training to overcome the matters which have led to his licence being revoked.

The driver is the owner of his hackney carriage. No one else is insured to drive the vehicle and it seems that it has suffered damage as a result of the incident. Members therefore feel that the vehicle licence should be suspended until 31 August 2011 but give delegated authority to the Assistant Chief Executive – Legal to remove this suspension in the event that he is satisfied that the vehicle meets the council's standards and that a hackney carriage driver licensed by this council is insured to drive it.”

This part of the meeting ended at 6.25pm.

LC47 **PUBLIC QUESTION AND ANSWER SESSION**

The Chairman welcomed all present at 7.30 pm and invited members of the public present to speak in accordance with their notice of intention to do so.

Statements were then made by Mr B Drinkwater and Mr R Sinnott.

Mr Drinkwater congratulated Mr M Hardy the Licensing Officer on his elevation to the position of Chairman of the National Association of Licensing and Enforcement Officers and wished him all the best in his year of office.

The Licensing Officer responded appropriately and expressed his gratitude to the Assistant Chief Executive-Legal who had given full support to him in his effort to achieve this honour. The Licensing Officer was delighted to be now able to represent Uttlesford and the National Association of Licensing and Enforcement Officers in discussions at a national level.

Mr Drinkwater also expressed the gratitude and pleasure felt by the Association as a result of the attendance and address given at their AGM by the Assistant Chief Executive - Legal.

Mr Sinnott informed the meeting of useful liaison achieved with BAA regarding information on tender invitations for taxis at the airport.

The Chairman thanked both speakers.

LC48 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors H J Asker, R M Lemon and D G Perry.

LC49 **MINUTES**

The minutes of the scheduled meeting of the committee held on 8 September 2010, and the extraordinary meetings of the committee held on

27 September 2010 and 1 November 2010 were received confirmed and signed by the Chairman as a correct record.

LC50 BUSINESS ARISING

The Assistant Chief Executive - Legal reminded the meeting that the declarations referred to in Minute LC38 were intended to discourage applications for low priced licences in Uttlesford by proprietors from elsewhere who did not intend to operate in the District.

He added that there had been no appeal notice received regarding the Committee's decisions set out in minutes LC40 and LC42.

LC51 VEHICLE TYPES OF PRIVATE HIRE VEHICLES

The Committee received a report from the Assistant Chief Executive - Legal on an approach to the Council to licence 3 wheeled vehicles which did not currently meet the Council's specifications. Further details submitted by the applicant had been circulated and the applicant informed of the meeting and invited to it, but he was not in attendance.

Members considered the available information fully but were concerned as to the safety of the vehicle in question as transport for members of the public.

RESOLVED that the Council's policy should not be altered to accommodate these vehicles.

LC52 EXERCISE OF DELEGATED POWERS

The Committee received the report of the Assistant Chief Executive - Legal to inform members of the exercise of his delegated powers since the last meeting of the committee. Members expressed their warm appreciation for the timely e-mailed information about specific exercise of delegated power being sent to them by the Assistant Chief Executive - Legal.

The meeting ended at 8.30pm.