

**Committee:** Licensing and Environmental Health

**Agenda Item**

**Date:** 26 September 2013

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**Title:** **Determination of a Private Hire Operator's Licence**

**Author:** Matthew Chamberlain, Enforcement Officer,  
(01799 510326)

Item for decision:  
yes

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## Summary

This report has been submitted for members to consider suspension or revocation of a Private Hire Operators Licence in accordance with section 62(1)(a) Local Government (Miscellaneous Provisions) Act 1976 under the heading "an offence under, or non-compliance with, the provisions of [Part II of the Act]" and/or under s.62(1)(b) "any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence" and/or under s.62(1)(d) "for any other reasonable cause".

## Recommendations

The committee determine whether the operator should have their private hire operator's licence suspended or revoked.

## Financial Implications

None arising from this report

## Background Papers

1. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
  - a. Uttlesford District Council Private Hire Operator Conditions.
  - b. Witness statement from PC Cuthbertson dated 2 July 2013.
  - c. Email from Daniel Mellini dated 12 July 2013.
  - d. Email from the operator dated 22 July 2013.
  - e. Transcript of interview under caution with Andrew Cooper dated 14 August 2013.

## Impact

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence operators who are considered to be fit and proper.

Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	<p>Under section 62 of the LG(MP)A district councils may suspend or revoke an operators licence for</p> <p>(a) any offence under, or non-compliance with, the provisions of this Part of this Act;</p> <p>(b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;</p> <p>(c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or</p> <p>(d) any other reasonable cause.</p> <p>In the event of a licence being suspended or revoked than an individual has the right of appeal to a Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

1. Essex Limos Limited is a private hire company which specialises in stretch limousine work whose operating address is 10 Bury Fields, Felsted, Dunmow, Essex, CM6 3HA. It was first granted an operator licence by Uttlesford District Council on 4 February 2013 and this is due to expire on 31 January 2014.
2. The company has two current directors. Andrew Cooper is the Managing Director and has control of the day to day running of the business.
3. Essex Limos Limited currently has two licensed vehicles and three licensed drivers with this Authority.
4. On Friday 28 June 2013 PC Alastair Cuthbertson of the Commercial Vehicle Unit at Essex Police was carrying out a stop check at the Parklands Hotel in Quendon. At approximately 19.15 hours PC Cuthbertson stopped a pink Lincoln Town stretch limousine registration number S661 RLS which is Uttlesford District Council Private Hire Vehicle 572. The driver of the vehicle was Stephen Chambers and PC Cuthbertson established that he had just

dropped off eight pupils to a summer prom at Saffron Walden County High School. Mr Chambers was asked for his drivers licence badge, which a driver of a private hire vehicle should be wearing and he explained that he did not have a licence and was unaware of the fact he needed one. Mr Chambers told PC Cuthbertson that he had been asked to drive the vehicle at short notice and he was between employments as a pilot.

5. On 9 July 2013 two Enforcement Officers carried out a visit to 10 Bury Fields, Felsted to inspect the record of private hire bookings for Essex Limos Limited. There was no reply at the house and no licensed vehicles on site and as such the officers were unable to check the records of bookings. The Enforcement Officers then visited the Essex Limos Limited address which is on their website and is Unit 8, Broadfield Farm, Dunmow Road, Rayne, Essex CM77 6SA which is in the Braintree District. Essex Limos had a portacabin office at the address with their licensed vehicles parked up including private hire vehicle 572 which had been stopped by PC Cuthbertson. Records of private hire bookings were kept on the computers at this address. A director of the operator spoke to the two officers and explained that he did not work the evening of the 28 June 2013 and that Steve Chambers only does wedding driving and another driver called Steve Collins was meant to do the job on 28 June 2013 and he was not aware of the stop check. The director said that the business were trying to find suitable premises in Uttlesford to move to but had not found anything at that time.
6. Following the visit to Essex Limos Limited a request for information was made to the Licensing Manager at Braintree District Council in relation to the licenses held by Essex Limos Limited with Braintree District Council. He responded by stating that Essex Limos Limited they have four drivers and seven vehicles licensed with them. One of the vehicles licensed by Braintree District Council is Uttlesford District Council private hire vehicle 572.
7. Mr Cooper attended an interview under caution on 14 August 2013 which was conducted by two Enforcement Officers. In the interview Mr Cooper confirmed that Essex Limos Limited have two operating addresses, in Rayne and Felsted, as they are running out of space at their address in Rayne and plan to move their fleet to Uttlesford because the Authority is a quarter of the price of Braintree. There is however no evidence that the company is currently operating from the address given in the operator's licence in Uttlesford or from any other address in the district. Mr Cooper explained that Steve Collins was meant to do the job but pulled out late on and as a result he personally allocated Steve Chambers to do the job as he did not want to let the children down on their last day of school for their prom. Mr Cooper accepted that what he did was wrong but felt that he had no option as Mr Collins had withdrawn so soon before the job started and that as Mr Chambers was a pilot he had more extra DBS checks than licensed drivers.
8. In the opinion of the Assistant Chief Executive Legal it is in the public interest to prosecute Essex Limos Limited for the offence of operating a Private Hire Vehicle with an unlicensed driver which carries a maximum penalty of £1000

upon prosecution. As the company has a pending prosecution then they fall below the licensing standards for the Council.

9. The Council's Licensing Policy Relating to the Hackney Carriage and Private Hire Trades provides at paragraph 6.12 "With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is therefore that where an operator has committed an offence a suspension should not be imposed and a prosecution should be brought even for a first offence." The prosecution authorised by the Assistant Chief Executive – Legal is consistent with this policy. It does however leave the question for members to determine as to whether the company remains a fit and proper person to hold an operator's licence.

### Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unfit person is authorised to operate a private hire company in the district.	1- Members have an awareness of what constitutes a fit and proper private hire operator.	4- Permitting unfit persons to operate a private hire company with unlicensed drivers may put the public at risk.	Members consider whether Essex Limos remains a fit and proper person to retain their private hire operator's licence in the light of their pending prosecution.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.