

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE MEETING held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 2pm on 2 JULY 2014**

Present: Councillor D Perry (Chairman)
Councillors J Davey, J Loughlin and J Salmon

Officers in attendance: M Perry (Assistant Chief Executive – Legal) and A Rees (Democratic Services Support Officer).

LIC10 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

It was decided that item 2 would be heard in the absence of the driver.

LIC11 EXCLUSION OF THE PUBLIC

RESOLVED that under section 100I of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

**LIC 12 DETERMINATION OF A PRIVATE HIRE/ HACKNEY CARRIAGE
DRIVERS LICENCE**

The Assistant Chief Executive – Legal outlined the report. The driver was licensed by the Council as a combined private hire/hackney carriage driver. He was first licensed from 4 June 2013 and the licence was due to expire on 31 May 2015. He was employed by 24/7 and carried out school contract work. On 16 June 2014, the Council received a report from a police officer. He had stopped the driver and stated that the driver was travelling at speeds between 90 and 95mph for a period of time and 95mph for 2.2 miles. At one point he undertook a van and a caravan. When the police officer stopped the vehicle, he discovered that there was a 10 year old passenger in the front seat.

The driver was suspended with immediate effect by the Assistant Chief Executive – Legal on the grounds of public safety. The Assistant Chief Executive – Legal said that further information had been received from the police that morning but as it had not been possible to serve this upon the driver in good time before the meeting he would not be drawing that information to the attention of the Committee. If the Committee felt unable to reach a decision then the Assistant Chief Executive – Legal would ask that the meeting be adjourned and the suspension continued, so that the driver could be served with the information and have the opportunity to comment on it before it was considered by Members.

The driver had received a fixed penalty notice for excess speed for an offence committed on 10 July 2013. He had failed to notify the Council of

the conviction within seven days, which breached the conditions of the licence. When the police officer stopped the driver, he observed that the driver was not wearing their badge. In a letter the driver had said that they would not appeal any decision made by the Committee Members were advised that the driver's licence could not be suspended indefinitely. The licence could be suspended until its expiry date. If drivers received six or more points on their licence for a single offence, they were not considered a fit and proper person to hold a licence. Members were informed that the Assistant Chief Executive – Legal could, in consultation with the Chairman, remove the suspension in the event the driver received less than six points on their licence because of the offence. The driver's licence could also be revoked.

In response to questions by members, the Assistant Chief Executive – Legal said that it was not known how fast the driver was travelling when he received a fixed penalty notice on 10 July 2013. For a child to be allowed to sit in the front seat of a vehicle they had to be either over 1.3 metres tall, or at least 12 years old. The driver was carrying out a school contract when he was stopped by the police officer.

DECISION

The driver was licensed by the Council as a combined private hire/hackney carriage driver. He was first licensed with effect from 4 June 2013. His licence was renewed with effect from 1 June 2014 and expires on 31 May 2015. He was engaged by 24/7 performing school contract work.

On 16 June 2014 the council received a report from a police officer. He reported that he stopped a Skoda Fabia registration number AF10 XE0 which is licensed by this council as a private hire vehicle plate number 256. The vehicle was being driven by the driver on the A11 at Wymondham. The police officer states that the vehicle was travelling between 90 and 95 mph for a period of time and 95 mph for 2.2 miles. The driver undertook a van and a caravan on this stretch of road. When the police officer stopped the vehicle he found there was a 10 year old passenger in the front seat. The police officer reports that the driver stated that he was going through a bad patch as he had lost his mother and father recently. He asked the officer to let him off with a warning as he feared he would lose his job, but the police officer feels the matter is so serious that it would be dealt with by the court.

In the light of the nature of this report the Assistant Chief Executive - Legal suspended the driver's licence with immediate effect in the interests of public safety.

In addition to the complaint regarding the driver's driving the Assistant Chief Executive – Legal referred two further matters to the Committee. The first of these is that when applying to renew his licence this year the driver disclosed that he had received a fixed penalty notice for excess speed for

an offence committed on 10 July 2013. The driver had failed to notify the council of that conviction within seven days in accordance with the conditions relating to his licence. The second matter is that when the driver was stopped by the police officer he was observed to not be wearing his badge. Failure to wear a badge is a criminal offence. The badge was in the vehicle, but the driver told the police officer that it was too hot for him to wear.

The driver has not appeared before the Committee today but has sent a letter to the Chief Executive and the Assistant Chief Executive – Legal which has been placed before the Committee today. In that letter the driver acknowledges he was speeding but does not agree with the speed recorded by the police officer. He does not consider the car he was driving was capable of that speed. No evidence has been put forward by the driver in support of that assertion. Most cars manufactured today are capable of speeds of over 100 mph which is greater than the speed the police officer attributes to the driver. The driver also says that he undertook the van and caravan because he was pulling over as indicated by the police officer. He says that he was under strain at the time having recently lost both of his parents, he had undertaken a long journey and lost his concentration.

In his letter the driver did not comment on why he failed to notify the Council of the earlier fixed penalty notice. With regard to the failure to wear his badge he said that he removed the badge temporarily as it was causing neck irritation and also it was very hot.

The driver says in his letter that he has been driving for many years without being involved in or causing any accident. However the Committee note that the driver had received a fixed penalty notice for excess speed less than 12 months prior to the most recent incident. As that was a fixed penalty notice the speed limit would not have been breached by the same margin as occurred with regard to the latest offence. The driver's driver's licence also shows 2 previous fixed penalty notices for excess speed in 2007 and 2008. Whilst these endorsements are no longer current the Committee is entitled as a matter of law to have regard to them and the picture painted overall is that the driver does not pay close attention to speed limits.

Members regard the manner of the driver's driving as reported by the police officer and accepted by the driver to be wholly unacceptable. He was exceeding the speed limit by a considerable margin. At the minimum he would have been driving at 25 mph over the limit. He overtook vehicles on the inside. He was a danger to road users and himself and put his passenger, a schoolchild, at risk. In the circumstances members are no longer satisfied that the driver is a fit and proper person to hold a private hire/hackney carriage driver's licence. The driver's licence is therefore revoked for any other reasonable cause under s.61(1)(b) Local Government (Miscellaneous Provisions) Act 1976. Members having found that the driver's manner of driving did pose a danger to the public and his

passenger members consider that the interests of public safety require the revocation of the licence to take immediate effect and give notice of that decision under s.61(2A) of the Act.

With regard to the two further matters of the breach of condition on his licence and the offence of not wearing his badge these are matters which would usually have been dealt with by the Assistant Chief Executive – Legal under delegated powers. Applying the council’s policy unless there were mitigating factors or aggravating factors the driver’s licence would have been suspended for 5 days for the breach of condition and he would have been formally cautioned for the offence. These two matters have not influenced the Committee’s decision to revoke the driver’s licence and in the light of the decision no further action is required with regard to them.

The meeting ended at 2.30pm