



# Uttlesford District Council

Chief Executive: Dawn French

## Licensing and Environmental Health Committee

**Date:** Wednesday, 24th January, 2018

**Time:** 7.30 pm

**Venue:** Committee Room - Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex CB11 4ER

**Chairman:** Councillor R Chambers

**Members:** Councillors A Anjum, G Barker, J Davey, A Gerard, T Goddard (Vice-Chair), J Gordon, E Hicks, S Morris and G Sell

**Substitutes:** Councillors H Asker, J Freeman, R Freeman, D Jones and J Loughlin

### Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting.

## AGENDA PART 1

### Open to Public and Press

#### **1 Apologies for Absence and Declarations of Interest**

To receive any apologies for absence and declarations of interest.

#### **2 Minutes of the Previous Meetings**

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To consider the minutes of the previous meetings held on 25 September, 31 October, 20 November, 6 December and 18 December 2017.

**3 Fees for Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operators 43 - 56**

To consider for approval the licence fees for Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operators.

**4 Evaluation and Implementation of Sections 165 and 167 of the Equality Act 2010 57 - 60**

To receive the 'Evaluation and Implementation of Sections 165 and 167 of the Equality Act 2010' report.

**5 Enforcement Activity since April 2017 61 - 64**

To receive the report outlining Enforcement activities since the previous committee meeting held on 12 April 2017.

## **MEETINGS AND THE PUBLIC**

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The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 10am on 25 SEPTEMBER 2017**

Present: Councillor R Chambers (Chairman)  
Councillors J Davey, A Gerard and E Hicks

Officers in  
attendance: A Bochel (Democratic Services Officer), M Chamberlain  
(Enforcement Officer), J Jones (Licensing Officer) and C  
Nicholson (Solicitor).

Also Present: The drivers in relation to items 3, 4 and 6 and the complainant in  
relation to Item 6.

**LIC23 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.

**LIC24 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 5**

The Committee heard the driver in relation to Item 5 had surrendered his  
license before the meeting.

**LIC25 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 7**

The Committee heard this case had been deferred to allow a sufficient period of  
time for the driver to view the report.

**LIC26 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 4**

The applicant in relation to Item 3 had not yet arrived. The committee therefore  
moved on to Item 4.

The procedure for determining private hire drivers' licences was read to the  
applicant. The Committee considered the report of the Licensing Officer.

At the invitation of the Chairman, the applicant made a statement to the  
Committee. He said he needed part-time work, but the mental health sector,  
which was his previous area of work, was too challenging at his age. He had

also run a business but this had folded due to ill-health. He was now able to work again, and the possibility of a job with 24/7 was a perfect opportunity.

In response to a question from Councillor Hicks, the applicant said the painkillers he was prescribed did not interfere with his driving.

In response to a question from Councillor Gerard, the Chairman said the applicant had travelled to Uttlesford to apply to register because 24/7 licensed all their drivers in Uttlesford.

In response to a question from the Chairman, the applicant explained the circumstances behind his criminal history. He had been made the manager of his own store, but had been accused of stealing, despite the incident happening when he was away on holiday. The Duty Solicitor had advised him to confess to avoid going to court. He now felt he had been set up and said he had never committed the crime.

The Solicitor said members needed to decide if the applicant was a fit and proper person to hold a private hire/hackney carriage driver's license.

At 10:15, the committee withdrew to make its determination.

At 10:20, the committee returned and the report was read to the applicant.

## **DECISION**

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed two convictions details of which are set out in the officer's report. The convictions were for the offence of theft, and possession of a class B drug. In respect of these offences he received a range of punishments including a custodial sentence that was suspended. By virtue of the custodial sentences for offences of dishonesty the applicant does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy. Essentially the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note that the offences were all at the lower end of the scale. In general the nature of the sentences imposed were not severe. The committee also note that the last offence was in 1982 and that the applicant has had no convictions of any nature since, and has had regular and responsible employment since.

In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

LIC27

### **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 6**

The procedure for determining private hire drivers' licences was read to the driver. The Committee considered the report of the Enforcement Officer.

At the invitation of the Chairman, the complainant in relation to Item 6 made a statement. She said the report was accurate, but could not understand how the driver could not remember the incident in question.

In response to a question from Councillor Hicks, the Enforcement Officer said despite the witness statements and the driver confessing to being at fault for the incident, it was not considered to be beyond reasonable doubt that he was the driver at the scene.

The complainant said she had been confused by the police response to the incident. She had received an email saying the driver had claimed that he was not at the incident, and then a further one saying the police would not be pursuing the case due to financial reasons. At the incident in question, the driver had made rude signs and had been driving very close behind her before forcing her off the road. She was sorry to hear he had split with his wife, but she had recently lost her mother and the impact of the incident had greatly affected her too. She had not yet received all the money she was owed and the driver had only decided to pay her two weeks ago. Her impression was he thought he had got away with it.

The driver said he still had no recollection of the incident, but was horrified at his behaviour. He had never denied it was him at the scene and had agreed to pay when he learnt about the incident later. There should be documentation and voice recordings to this effect. He had now split from his wife, but at the time they had been going through a difficult period. He was now having counselling. It was important that he get himself sorted out and could only apologise. When he had previously collided with a parked vehicle, he had gone out of his way to find the owner and had paid for the damage he had been responsible for. He was not the type of person to intentionally commit damage or injury.

In response to a question from the Chairman, the driver said he subcontracted during busy periods.

In response to a question from the Enforcement Officer, the complainant said bodywork damage to her car had cost £1800 to replace.

In response to a question from the Enforcement Officer, the driver said his work was a mixture of hackney-carriage work and pre-booked work.

The Solicitor said members needed to decide if the applicant was a fit and proper person to hold a private hire/hackney carriage driver's license.

At the invitation of the Chairman, the driver summed up that he wanted to express deep regret for the incident.

At 10:50, the committee withdrew to make its determination.

At 11:20, the committee returned and the report was read to the driver.

## **DECISION**

The matter before Members today is to consider the joint private hire/hackney carriage driver's licence and operator's licence of the driver, following information received as a result of a complaint by a member of the public. It was reported that the driver had driven aggressively, undercut another driver, and in the process actually hitting her car, and then had driven off without stopping to supply his details.

S61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 provides for the Local Authority to suspend or revoke a driver's licence for any other reasonable cause.

Likewise, s62(1) (b) and (d) of the same Act provides for the suspension or revocation of an operator's licence where either any conduct on the part of the operator appears to the Council to render him unfit to hold a licence, or for any other reasonable cause.

Members have heard how the police have decided not to take forward a prosecution as the incident is for them considered minor, and despite a witness account, the evidence was not sufficient enough for a prosecution case to be brought.

The driver has taken responsibility for the incident although he has stated that he has no recollection of the incident itself.

The decision before members is two fold – firstly does the driver remain a fit and proper person to hold a licence.

Members regard these matters as being serious, and are mindful that the most important role of the Committee is the protection of the public. In particular we are aware that drivers very often transport some of the more vulnerable members of the community, and have to consider most carefully whether this Committee can place any trust and confidence in the driver as a driver.



Members consider aggressive driving, including the light flashing and gesturing to intimidate other drivers is not acceptable for a licensed driver in any circumstance, as is failing to stop after a collision, which did cause substantial damage to the complainant's car.

From what both the complainant and the driver have said, Members consider that on the balance of probabilities, the accident was caused by the driver, as he has confirmed that he was in the vehicle at the time the incident took place, and there is no other reasonable explanation.

Members note the driver's contrition, the fact that there have been no other complaints despite him having held a licence since 2013, and the fact that he has accepted responsibility with the police and his insurance company. Members note that he is having counselling.

However, Members need to consider whether the driver remains a fit and proper person, and in this case, Members feel that is no longer the case. It cannot be acceptable for a licensed driver to cause an accident that caused substantial damage, and leave the scene. It is even more concerning that he had no recollection of the incident, even now.

Members consider that revocation is necessary and appropriate in this case, and that the seriousness of the matter needs to be acknowledged, and with that in mind members consider that the driver's driver's licence should be revoked.

The second decision Members need to make is in respect of his operator's licence- the considerations with respect of an operator's licence are slightly different from that as a driver as they are not driving, or having direct contact with members of the public, as can be seen from the Council's licensing standards, which focuses primarily on matters of dishonesty and having appropriate insurance.

Members note that the driver has been cooperative since he was notified of the accident, has shown contrition, and has not been or attempted to be dishonest, and has taken positive steps towards ensuring the same thing will not happen again. Therefore Members do not consider it necessary to revoke or suspend his operator's licence.

The driver is advised that this decision does not take effect for 21 days, during which time the driver can make an application to appeal against the decision to the Magistrates Court if he so wishes. All the details of the decision, and details of how to appeal will be contained in a letter that will be send to him following today's meeting.

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 3**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Licensing Officer.

At the invitation of the Chairman, the applicant made a statement to the Committee. He said he could not remember the incident in question, and had possibly been drinking at the time.

The Solicitor said members needed to decide if the applicant was a fit and proper person to hold a private hire/hackney carriage driver's license.

At 11:45, the committee withdrew to make its determination.

At 11:50, the committee returned and the report was read to the applicant.

**DECISION**

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed two convictions details of which are set out in the officer's report. The convictions were for offences of dishonesty of taking a car without consent, and associated driving offence. In respect of these offences he received a range of punishments including a custodial sentence that was suspended. By virtue of the custodial sentences for offences of dishonesty the applicant does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy. Essentially the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note that the offences were all at the lower end of the scale. In general the nature of the sentences imposed were not severe. The committee also note that the last offence was in 1969 and that the applicant has had no convictions of any nature since, and has had regular and responsible employment since. In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

The meeting ended at 11:55.

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 10am on 31 OCTOBER 2017**

Present: Councillor R Chambers (Chairman)  
Councillors J Davey and E Hicks

Officers in  
attendance: M Chamberlain (Enforcement Officer), B Ferguson (Democratic  
Services Officer), C Nicholson (Solicitor), A Turner (Licensing  
Team Leader).

Also Present: The driver in relation to item 5 and B Drinkwater (ULODA).

**LIC29 EXCLUSION OF THE PUBLIC**

The Chairman decided to move Items 4 and 5 forward in proceedings, as the driver for Item 4 had surrendered his licences and the driver for Item 5 was present and ready to be heard.

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.

**LIC30 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 4**

The driver had surrendered both his private hire/hackney carriage driver's licence and private hire vehicle licence prior to the meeting. Both licences had been cancelled and there was nothing for Members to consider.

**LIC31 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 5**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Enforcement Officer.

At the invitation of the Chairman, the driver made a statement to the Committee. The driver said that on the day of the incident he was driving his friend's car as he was dropping the friend off at the airport. On his way out of the airport, the driver was hit by the car behind and the police were quickly on the scene of the accident. The driver was insured by Swintons insurance broker's and he believed his policy had included third party cover, as it had in previous years. Since being informed by the police that he was not insured to drive his friend's car, the driver had put in a complaint with the Ombudsman relating to his insurer which was still being processed. For driving without

suitable insurance, the driver received six points on his licence. The driver said he was not aware that he had to notify the Licensing Department when he received these points, as the incident had occurred in a friend's private vehicle and was not related to his work as a professional driver.

On his next visit to the 24x7 offices, he was told by a colleague that he should notify the Council and he did so at the first opportunity. He said he was sorry for not notifying the Council within the prescribed seven days but had been concentrating on resolving the outstanding complaint with the Ombudsman. He had learnt his lesson and had never fallen below licencing standards before.

Mr Drinkwater asked the Enforcement Officer why there was no mention of the complaint being processed by the Ombudsman in the report, although it had been included in the background papers. The Enforcement Officer said it was not relevant to the retention of the driver's licence as the driver had accepted the offence and therefore fell below licensing standards. In addition to this he accepted the breach of conditions by failing to notify the Council within 7 days of receiving points on his licence.

Mr Drinkwater said the driver had made a mistake but was a fit and proper person to retain his private hire/Hackney carriage driver's licence. In mitigation, the driver had been caught up in changes to his insurance policy and the complaint was yet to be resolved by the Ombudsman. He said the driver had excellent references and his employer had described him as an 'exemplary driver' who was dependable and always available when required.

At 10.30, the Committee withdrew to make its determination.

At 10.50, the Committee returned and read the decision to the driver.

## **DECISION**

The driver holds a joint private hire and hackney carriage driver's licence, and has been licenced since October 2015. He predominantly carries out school contract work.

As a result of an accident whilst driving his friend's car, it became apparent that he was not insured to drive another person's car third party, despite that not being his understanding of his insurance policy. As a result of this failure, he received a fixed penalty notice for driving without insurance and had his licence endorsed with 6 points. The driver also failed to report the incident and fixed penalty notice within the 7 days required by his licensing conditions. The driver no longer meets licensing standards and is before members to consider whether he remains a fit and proper person to retain his driver's licence.

Members have heard the circumstances around the commission of the offence, the mitigating factor of the failure to have insurance being as a result of a genuine misapprehension of the nature of his policy, and how there have been

no other issues and complaints regarding this driver, and he has been provided with positive references.

Members take the matter of driving without insurance very seriously, as it is an integral part of being a responsible road user, and for protection of the public. However, members note that it was a private arrangement, unrelated to his occupation, as he was doing a favour for a friend. There is no reason to suggest that there is a risk that it would happen when he is working as a licensed driver. His employer remains happy with his employment. Therefore Members consider that despite these 6 points meaning that he no longer meets licensing standards, Members remain satisfied that he is a fit and proper person to hold a licence. A revocation of his licence in these circumstances would be unduly punitive.

Members also note that the driver failed to inform the Licensing Department within the required timescale of 7 days, and this is a breach of his licence conditions which are in place to protect members of the public, as the Licensing Department need to continually ensure that their licensed drivers are fit and proper to continue driving. However, Members do note that he did voluntarily notify the Council within 6 weeks, and has cooperated with their investigations since.

Members consider that this failure to follow licensing conditions does warrant a sanction as a mark of disapproval of the driver's conduct and as a deterrent to others, and that in the circumstances a suspension of the licence would be appropriate. In considering the length of the suspension Members can take into account the drivers past history, the seriousness of the breach and any other aggravating or mitigating factor, and the financial effect of any suspension upon the driver.

Other than this particular incident, there is no history of any problems; he is supported by his employer who remains confident in his conduct and performance. In accordance with paragraph 8.10 of the licensing policy, the starting point for a suspension for the first breach of condition is 5 days, and members consider that this will be appropriate in this case.

The driver is advised of his right to appeal against the Council's decision, and can do so by application to the Magistrates Court within 21 days of receipt of the written decision, which will follow this meeting.

LIC32

## **CERTIFICATION OF A FILM CLASSIFICATION**

Members were asked to consider and determine the application to classify the film "Littlebury" in accordance with the guidance from the British Board of Film Classifications (BBFC). The Licensing Team Leader presented her report on the application.

Members were told that the film would be shown at Saffron Screen cinema but as the film had not previously been classified by the BBFC it would need to be classified by Uttlesford District Council as the local licensing authority. The film

had a running time of 90 minutes and showed historic and contemporary images of the village of Littlebury and the surrounding area. Members watched the film and then considered the classification of the film, taking into account the categories used by the BBFC.

RESOLVED that the film be classified with a 'U – Universal' certificate.

The meeting ended at 12.30pm

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 10am on 20 NOVEMBER 2017**

Present: Councillor R Chambers (Chairman)  
Councillors G Barker, J Davey, E Hicks and A Gerard

Officers in  
attendance: M Chamberlain (Enforcement Officer), B Ferguson (Democratic  
Services Officer), J Jones (Licensing Officer), C Nicholson  
(Solicitor) and M Watts (Environmental Health Manager  
(Protection)

Also Present: The drivers in relation to items 3, 4, 5, and 6; M Hardy  
(representing the driver in relation to Item 5) and Mr Khan  
(Interpreter for and manager of the driver in relation to Item 6).

LIC29 **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.

LIC30 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 3**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Licensing Officer.

At the invitation of the Chairman, the driver made a statement to the Committee. The driver said that he had applied to be licensed by Uttlesford as there was too much competition in his previous area of operation in Norfolk. He said he had a job waiting for him if granted a licence which would help support his family as he expected more regular work.

Councillor Gerard asked if the investigation into the scrapped car and the subsequent six points the driver had received had come to a conclusion. The driver said it had not and the six points were still on his licence. The Chairman said he was surprised that the court had found him guilty when he had a receipt proving that the car had been scrapped. The driver said this was the result of him being unable to identify who was driving the car as well as the court being unable to track down the scrap company who had issued the receipt.

In response to a question from Councillor Gerard, the driver said he had received a six month driving ban in the distant past. The Chairman said this ban had not been declared in the background papers provided; the Licensing Officer

confirmed that he had not declared this offence. The driver said he thought the ban was irrelevant as it had happened many years ago and he had maintained a clean driving licence for the past six or seven years. He added that the ban was due to a culmination of speeding offences under the 'totting up' system.

At 10.20, the Committee withdrew to make its determination.

At 10.55, the Committee returned and read the decision to the driver.

## **DECISION**

The driver has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a driving offence for which he received a fine and 6 points, details of which are set out in the officer's report. By virtue of the 6 point endorsement, the driver does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy. Essentially the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note that the circumstances of the offence. However, the driver has not provided any additional information to support his explanation of events, and in the circumstances, Members cannot go behind the conviction, and have to accept it as stated.

In addition, Members are particularly concerned to have heard during the course of this hearing that in fact the driver failed to complete his application form correctly and truthfully, by failing to disclose that he had been disqualified from driving as a result of a number of speeding offences under the totting up procedure.

Whilst the disqualification itself would not have been relevant as the driver would still have met licensing standards, the failure to declare it could amount to a criminal offence of making a false declaration to obtain a licence, and Members are unhappy with the dishonesty, whether knowing or reckless. The driver's explanation that he did not think it was relevant is no excuse, as the questions on the application for are clear.

In the circumstances, members are not satisfied that the driver is a fit and proper person and that it is therefore not appropriate to make a departure from its policy. The driver will not be granted a driver's licence.



LIC31

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 4**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Licensing Officer.

At the invitation of the Chairman, the driver made a statement to the Committee. The driver said his crime of theft was a mistake and he had been trying to redeem himself ever since. He had now matured and was a family man; he highlighted his position of trust as a team leader at Tesco's as proof of his development. He added that he had been driving for eleven years and had no driving convictions. If granted a licence, he had a job waiting for him with Phoenix Cars.

At 11.05, the Committee withdrew to make its determination.

At 11.25, the Committee returned and read the decision to the driver.

**DECISION**

The driver has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a conviction details of which are set out in the officer's report. The conviction was for an offence of dishonesty. In respect of this offence he received a custodial sentence that was suspended. By virtue of the custodial sentences for an offence of dishonesty the driver does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy. Essentially the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note that the conviction was 7 years ago, and that it was his only conviction. He has had responsible employment since, and held a position of responsibility at Tesco's following his promotion to team leader. Members also note that the driver has a clean driving licence. Members have heard how the driver has learnt from his mistake, how he has matured, and how he is trying to redeem himself, and support his wife and family.

In the circumstances, members are satisfied that the driver is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The driver will be granted a driver's licence.

LIC32

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 5**

The procedure for determining private hire drivers' licences was read to the applicant and his representative. The Committee considered the report of the Licensing Officer.

At the request of the Chairman, the driver's representative made a statement on the driver's behalf. Mr Hardy said it was not this committee's role to consider the convictions that had already been dealt with in the past, and they could depart from licensing standards if they considered the driver to be a fit and proper person.

Councillor Gerard asked if the driver had received any driving penalties. The driver said he had been caught speeding five years ago, although he had no other driving convictions. In response to a question from Councillor Barker, the driver said he had conducted himself properly in the past 36 years and highlighted his work with BT where he was an engineer and one of a select few trusted enough to be allocated sensitive work.

At 11.45 the Committee withdrew to make its determination.

At 12.00, the Committee returned and read the decision to the driver.

## **DECISION**

The driver has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a number of convictions details of which are set out in the officer's report. The convictions were varied but included offences of dishonesty and violence. In respect of these offences he received a range of punishments including custodial sentences. By virtue of the custodial sentences for offences of dishonesty and violence the driver does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy and the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note the explanations given by the driver, detailed in the report and here today. The committee also note that the last offence was 36 years ago and that the driver has had no convictions of any nature since. Members also note that the driver has also only had one driving endorsement in all the time he has been driving, in a personal and professional capacity.

The driver has also had responsible employment with two different employers for whom he worked a considerable amount of time, and had carried out work that required a significant level of trust.

In the circumstances, members are satisfied that the driver is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The driver will be granted a driver's licence.

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 6**

The procedure for determining private hire drivers' licences was read to the applicant and his interpreter. The Committee considered the report of the Enforcement Officer. At the request of the Chairman, the driver's interpreter and manager made a statement on his behalf.

Mr Khan, of Lucketts of Watford Ltd, told members that the driver was a reliable employee who had never caused any problems for the company.

Councillor Gerard asked how long the driver had lived in Watford. The driver said he had lived there for fifteen years. Councillor Barker asked if the driver had any problems communicating with passengers, and the driver replied no. The Chairman asked if he ever spoke to his passengers, and the driver said he did not.

The Chairman asked why Mr Khan had attended the hearing if the driver was not in need of an interpreter. Mr Khan said his employee had been nervous and he was there for reassurance.

The Enforcement Officer asked the driver to describe the initial offence that had brought him into contact with the Council. The driver appeared not to understand until Mr Kahn explained the question to him. The driver said he had driven through a red light as he had not seen it.

In response to a question from the Chairman, Mr Khan said the driver only carried out work for the three contracts relating to three disabled children. Councillor Gerard asked if the driver would feel comfortable carrying other passengers. Mr Khan answered on the driver's behalf and said he would only drive these three children as that was the limitation of his contract.

The Enforcement Officer asked the driver how he could satisfy members that he could abide by Uttlesford's driving standards. The driver said if he breached standards again, he would notify the council.

Councillor Barker asked what work the driver did for Transport for London. The driver did not answer. Councillor Barker repeated the question and Mr Khan said the driver carried out taxi work. Councillor Gerard said he was not satisfied that the driver could understand and asked the driver if he felt his grasp of the English language was a problem. The driver said he did not think it was a problem.

At 12.20 the Committee withdrew to make its determination.

At 13.00, the Committee returned and read the decision to the driver.

**DECISION**

The driver has a joint private hire/hackney carriage driver's licence. Following the Council's annual driver check of the DVLA it was revealed that the driver had received a fixed penalty notice which he did not notify to the Council. As a result he had breached licensing conditions.

The driver was asked to attend the Council and explain to officers the circumstances surrounding the offence and failure to notify with a view to making a suspension of the licence by way of sanction.

However, as a result of the meeting, Officers were concerned that the driver did not meet the licensing standard of having a reasonable command of English to enable him to perform the functions of a licensed driver.

Members have heard a description from the Enforcement Officer of that meeting, and a written report has also been made, which Members have considered.

In this case, the driver needs to satisfy members that his command of English was sufficient to enable him to perform the functions of a driver.

Members have today had the opportunity to speak to the driver and ask him questions about his work, his driving history, and the fixed penalty notice he received. Members and officers have asked a number of questions, both open and closed to give the driver an opportunity to demonstrate that he understands spoken English and can respond appropriately.

Unfortunately, the driver has not appeared to have understood a large proportion of the questions being asked, and has required his manager to translate both the questions and the answers on his behalf. For example, he was unable to explain how he uses his licence from Transport for London until the question was interpreted and his interpreter answered for him. Likewise, he was unable to explain the circumstances surrounding his driving endorsement without assistance from his manager.

Members have heard the driver works carrying out school contract work only, carrying the same passengers each day, and that he is a reliable driver in that regard. His manager is satisfied with his conduct.

However the driver's licence is not limited to school work, and the Council's licensing standards apply across the board. Members have a responsibility to ensure the safety of passengers, and consider this is their paramount concern.

Members need to be satisfied that the driver can converse with passengers, and emergency services if so required, understand instructions, both verbal and written and be able to respond to questions.

In all the circumstances, Members are not satisfied that the driver has reasonable command of the English Language sufficient to enable him to perform the functions of a hackney carriage/private hire driver. The driver licence is therefore hereby revoked under s61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The driver is advised that he does have the right to appeal against this decision by application to the Magistrates Court within 21 days of receipt of the written decision notice. All the details will be contained in that letter.

LIC34

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 7**

The driver relating to item 7 had informed the Enforcement Officer that he would be unable to attend the hearing. Members agreed to defer the hearing and allow the driver another opportunity to attend.

The meeting ended at 1.10pm.

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held in the COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 10am on 6 DECEMBER 2017**

Present: Councillor R Chambers (Chairman)  
Councillors G Barker, A Gerard and E Hicks

Officers in  
Attendance: B Ferguson (Democratic Services Officer), E Smith (Solicitor) and  
A Turner (Licensing Team Leader)

Also Present: Mr Ahmed (Premises Licence Holder – Radhuni), Mr Clarke  
(Immigration Officer - Essex Police), Mr Miah (Premises Licence  
Holder – Razza), Ms Powell (Licensing Officer - Essex Police),  
and Mr Wilkinson (Solicitor - Mr Miah)

LIC35

**APPLICATION FOR THE REVIEW OF A PREMISES LICENCE UNDER THE  
LICENSING ACT 2003 – RAZZA**

As the Premises Licence Holder for the first item listed on the agenda had not arrived, the Chairman moved the item regarding the application in respect of Razza forward in the proceedings.

The Chairman explained procedure and introduced the panel to Mr Miah and his representative, Mr Wilkinson. The Licensing Team Leader presented her report to the panel, explaining why the premises licence was under review and what decisions the Committee could make in respect of the review. No questions were asked at this point.

At the invitation of the Chairman, Ms Powell presented her report to the panel, outlining the Police's case for revocation of Mr Miah's premises licence on the grounds that the 'prevention of crime and disorder objective' of the Licensing Act 2003 had been undermined.

In response to a question from Mr Wilkinson, Ms Powell said Essex Police had been working with local businesses to ensure they were abreast of new legislation. However, she said she would expect business owners to keep themselves informed and added that 'Right to Work' checks were not new and had been in force since 1996.

Councillor Gerard asked if the onus was on the licence holder to keep themselves informed of new legislation. Ms Powell said it was but guidance was available in the form of free subscriptions, which updated subscribers on any changes to the law. She added that guidance was also offered by the police when they carried out random checks on licenced premises; however, on this occasion the review had been intelligence led where information received by the Police had pointed to a clear breach of the law.

Mr Wilkinson asked a number of questions relating to individuals mentioned in the report. Ms Powell said two men had been arrested for working illegally at Razza, and another had been identified as a UK national.

Mr Wilkinson tabled a written statement. The Chairman allowed Members five minutes in which to read the document. The Chairman then invited Ms Powell to question Mr Miah.

In response to a question from the Ms Powell, Mr Miah said he had been out of the country at the time of the Immigration Officer's visit but he had verbally delegated authority to an employee. He confirmed that this employee was not a premises licence holder and did not have the necessary training, although he did have much experience in the restaurant industry.

Ms Powell said Mr Miah had put forward the argument that as he had not been prosecuted for illegally employing people, he therefore had done nothing wrong. She said this was untrue and explained the legal distinction between illegal employment and illegal working, and the different standards of proof required to bring forward a successful prosecution. When asked, Mr Miah said he did not retain employment contracts as he mostly employed friends and family. He said it was his delegate who had broken the law, rather than himself, and the Police would have prosecuted him [Mr Miah] if there had been enough evidence to do so. Ms Powell explained that the burden of proof required to prosecute an employer was much greater than that needed to prosecute an illegal worker. She said as Mr Miah did not produce employment contracts, it would be very difficult to prove he was not employing people illegally.

Mr Miah asked a series of questions relating to the appearance and identity of individuals described in the Police report. Mr Wilkinson said this was the first opportunity Mr Miah had to question the report in the presence of Officers. Mr Clarke said he had been present at the time of the visit and highlighted a particular officer statement to identify the individuals Mr Miah was referring to.

In response to a question from Councillor Gerard, Mr Miah said he had been running his own business for sixteen years and had been licensed for the duration of that time. He added that he had been on holiday three or four times during that period.

Councillor Gerard said Mr Miah was an experienced business owner and knew the importance of delegating authority. He asked Mr Miah why he had omitted all mention of the delegation of authority in his statement.

Mr Wilkinson said the document was not a statement.

Mr Miah said he had verbally delegated authority to people when he had been on holiday in the past and there had never been a problem before. He added that he should have included the delegation of authority in his statement.

In response to a further question from Councillor Gerard, Mr Miah confirmed that the document distributed to the panel was his statement.



Councillor Barker said it was not a statement as Mr Miah had not signed it; he asked if Mr Miah had written the document.

Mr Wilkinson said his client had not written the document and it was not a legal statement but rather a summary of Mr Miah's situation.

Councillor Barker asked for the name of the individual to whom authority had been delegated and what qualifications he had.

Mr Miah named his delegate and he was experienced but did not hold a licence, nor did he have relevant qualifications.

The Licensing Team Leader asked Ms Powell if Mr Miah had been served the non-redacted version of the police report.

Ms Powell, and Mr Miah, confirmed that this was the case.

The Chairman asked Ms Powell, on behalf of Essex Police, to submit a closing statement.

Ms Powell said Right to Work checks had been in force since 1996 and Mr Miah was required to keep up to date with current legislation as a responsible business owner. She said that due diligence had not been carried out and Mr Miah had not supplied the police with employment contracts, proof of right to work checks and proof that he had delegated authority to an employee. She said the employment of illegal workers was akin to modern slavery as workers had no rights, no contracts and no definitive wages. She added that this had wider ramifications on the community at large as it gave the business an unfair commercial advantage in terms of a lower wage bill, as well as undercutting the wages of local workers.

Ms Powell said Mr Miah, as a Premises Licence Holder, had breached Licensing Objective One, the prevention of crime and disorder, as illegal workers had been found working on his premises. For this reason she recommended that Mr Miah's licence was revoked.

At the request of the Chairman, Mr Wilkinson submitted a closing statement on behalf of Mr Miah.

Mr Wilkinson apologised to the Committee for the confusion surrounding the document he had distributed to the panel. He said Mr Miah was of good character and had never come into contact with the authorities before. He said Mr Miah had discharged his duties properly by delegating authority to an employee, and that Mr Miah knew nothing of the illegal workers whilst he was away on holiday.

At 11.50, the Committee withdrew to make its determination.

At 12.55, the Committee returned and read the decision notice to Mr Miah.

## DECISION NOTICE

The application before the Panel today is for the review of the premises licence of the Razza Restaurant, Temple Buildings, Braintree Road, Felsted, dated 28<sup>th</sup> December 2012 and held by Saysta Miah. Mr Miah is also the DPS. The application is being made by Essex Police and they are supported by the Immigration Authorities. An email confirming this is included within the papers before us.

The grounds for the application are that the Police consider Licensing Objective One, the prevention of crime and disorder, is being breached and specifically, that no right to work checks are being carried out under the Immigration, Asylum and Nationality Act 2016, two persons having been found on the premises carrying out work when not permitted to do so under the immigration legislation. This is a serious offence and on indictment carries with it liability to 2 years imprisonment and/or an unlimited fine.

We have had sight of a detailed report and have considered the extensive background papers, including:-

- (a) Premises Licence
- (b) Plan of Premises
- (c) Application for the review of a premises licence under the Licensing Act 2003
- (d) Licensing Act 2003
- (e) Revised Guidance issued by the Home Office dated April 2017 under section 182 of the Licensing Act 2003
- (f) Uttlesford District Council Statement of Licensing Act 2003 Policy 2017-22.
- (g) A document prepared by solicitors and submitted on behalf of Mr Miah.

In particular we have been mindful of paragraph 2.6 of the Home Office Guidance, which specifically includes illegal working within licenced premises as a matter Licensing Authorities are to take account of. Paras 4.22, 8.99, 11.18 and 11.26 expand further upon this, and para 11.27 states that “there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises for.....employing a person who is disqualified from that work by reason of their immigration in the UK.”

Paragraph 11.28 says ‘It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.’

We have also been referred to case law which specifically provides that a) deterrence of others is a consideration that this Committee may have in mind (*The Queen on the Application of Bassetlaw District Council v Worksop Magistrates Court [2008] EWHC 3530 Admin*) in making its decision and b) there does not have to be a conviction for an offence under the 2006 Act for a

licence to be revoked under the crime prevention objective ( *East Lindsey District Council v Hanif t/a Zara's Restaurant and takeaway [2016]EWHC 1265 Admin*)

The Council's existing licensing policy does not specifically make reference to immigration issues but it has been recently revised and the amended version contains the following provisions:

- 3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.
- The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
  - Illegal working

#### Control Measures

- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:
- (a) Effective and responsible management of premises
  - (b) Training and supervision of staff
  - (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA (British Beer and Pubs Association), Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
  - (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 25 policy)
  - (e) Provision of effective CCTV and mirrors in and around premises

- (f) Employment of Security Industry Authority licensed door staff
- (g) Provision of toughened or plastic drinking vessels
- (h) Provision of secure, deposit boxes for confiscated items ('sin bins')
- (i) Provision of litterbins and other security measures, such as lighting, outside premises
- (j) Membership of local 'Pubwatch' schemes or similar organisations
- (k) Right to work checks on staff and retention of documents**

The Committee's powers on a review are as follows:-

- Allow the licence to continue unmodified
- Modify the conditions of the licence
- Modify the conditions of the licence for a period not exceeding 3 months.
- Exclude a licensable activity from the scope of the licence
- Exclude a licensable activity from the scope of the licence for a period not exceeding 3 months.
- Revoke a licence
- Remove the Designated Premises Supervisor.

Should the Committee be minded to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representations received. This is made clear in paragraphs 10.8 and 10.10 of the Home Office Guidance. Equally, the Committee should not impose conditions that duplicate the effect of existing legislation, in this case S21 of the Immigration, Asylum and Nationality Act 2006.

We have heard from Ms Powell on behalf of the Police and Mr Clarke on behalf of the Immigration Authorities. Mr Miah has spoken on his own behalf and we have heard from his solicitor, Mr Wilkinson, as well.

However, there are a number of issues we cannot overlook. Firstly, Mr Miah did not keep proper records. His failure to keep those records meant that the Immigration Service could not evidence the contracts of employment necessary to issue a civil penalty or bring criminal charges. Secondly, he failed to delegate his responsibilities as a licensee to a properly qualified person while he was out of the country: a licensee's responsibilities do not cease just because they leave the premises.

Nor did he accept his responsibility to keep himself abreast of the law, or of other regulatory requirements applicable to his business.

Finally, we have considered the nature of the licensing objective at issue, namely the prevention of crime and disorder. The important word for our purposes is "prevention", and by his failures Mr Miah did not put into place measures to prevent illegal working. We have considered most carefully the decision of Jay J in the case of East Lindsey District Council v Hanif t/a Zara's Restaurant and Takeaway [2016] EWHC 1265 when he stated that the statute was engaged even when there had been no conviction.

This Committee's primary function is the protection of the public. Though we are not a Court and the standard of proof before us is the civil one of the balance of probabilities, we are satisfied that the two people referred to in the Police submissions and Home Office email were working illegally in the United Kingdom.

We therefore consider that the premises licence should be revoked under S52 (4) (e) of the Licensing Act 2003 and that revocation is an appropriate step with a view to promoting the crime prevention licensing objective.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the license remains in force. Mr Miah will receive a letter from the Legal Department explaining this.

LIC36

### **APPLICATION FOR THE REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 – RADHUNI**

*Councillor Gerard declared a personal interest as a customer of Radhuni restaurant and took no further part in the meeting. He left the room at 1.10pm.*

The Chairman explained procedure and introduced the panel to Mr Ahmed. The Licensing Team Leader presented her report to the panel, explaining why the premises licence was under review, and what decisions the Committee could make in respect of the review; Mr Ahmed confirmed he had been sent a copy of the report.

At the invitation of the Chairman, Ms Powell presented her report to the Committee, outlining the Police's case for revocation of Mr Miah's premises licence on the grounds that the 'Prevention of Crime and Disorder Objective' of the Licensing Act 2003 had been undermined. No questions were asked at this point.

Mr Ahmed presented his own account at the request of the Chairman. He said the letter he had sent to the Licensing Team Leader was in effect his statement. He said that he was on holiday at the time of the Immigration Officer's visit and that he only knew one of the three men arrested. He added that the man he knew had been staying with him but he had not given permission for any of the three men to work at his restaurant.

Ms Powell said one of the men arrested claimed he had been working at the restaurant for three months; Mr Ahmed said he had not employed the man but he was staying as a guest in his house. She asked if Mr Ahmed kept employment records; Mr Ahmed said he did not need to as he mainly employed family and friends. He added that he did carry out Right to Work checks if he employed somebody he did not know.

In response to a question from the Chairman, Mr Ahmed said he had not checked the immigration status of his friend who had been arrested for working illegally in his restaurant.

The Chairman asked Mr Ahmed if he did not feel liable for the illegality that had occurred at his restaurant, as referred to in his statement. Mr Ahmed said he did feel responsible and he was only quoting the letter he had received from the police. Mr Clarke said the letter he was referring to was essentially a 'no further action' letter which was commonly sent out when a prosecution was not to be taken forward.

At the invitation of the Chairman, Ms Powell submitted a closing statement on behalf of Essex Police. She told the panel that it was common for no prosecution to be brought forward for illegal employment, due to the heavy burden of proof required, but reminded Members that illegal workers had been found on the premises. She said Mr Ahmed had previously failed to carry out Right to Work checks and had been issued a civil penalty in 2011 for this offence. He had also failed to carry out due diligence and provided no employment contracts or proof of right to work checks. For these reasons she recommended that his licence should be revoked as Licensing Objective One, the prevention of crime and disorder, had been breached. She added that revoking a premises licence was a legitimate deterrent and highlighted the case of Bassetlaw as legal precedent.

At the invitation of the Chairman, Mr Ahmed submitted his closing statement. He asked Members to consider the impact of revoking his licence and said he would lose his business if he could no longer sell alcohol. He apologised for his staff being rude on the day Immigration Officers visited the premises. He thanked the panel and said he would accept their decision.

At 1.50pm, the Committee withdrew to make its determination.

At 2.15pm, the Committee returned and read the decision to Mr Ahmed.

## **DECISION**

The application before the Panel today is for the review of the premises licence of the Radhuni Restaurant, High Street, Newport, dated 18<sup>th</sup> November 2015 and held by Shamim Ahmed. Mr Ahmed is also the DPS. The application is being made by Essex Police and they are supported by the Immigration Authorities.

The grounds for the application are that the Police consider Licensing Objective One, the prevention of crime and disorder, is being breached and specifically, that no right to work checks are being carried out under the Immigration,

Asylum and Nationality Act 2016, three persons having being found on the premises carrying out work while not being entitled to do so under the immigration legislation. This is a serious offence and on indictment carries with it liability to 2 years imprisonment and/or an unlimited fine.

We have had sight of a detailed report and have considered the extensive background papers, including:-

- a. Premises Licence
- b. Plan of Premises
- c. Application for the review of a premises licence under the Licensing Act 2003
- d. Licensing Act 2003
- e. Revised Guidance issued by the Home Office dated April 2017 under section 182 of the Licensing Act 2003
- f. Uttlesford District Council Statement of Licensing Act 2003 Policy 2017-22.
- g. Supplemental Statement from Immigration Officer Clouting
- h. Letter from Mr Ahmed with enclosures.

In particular we have been mindful of paragraph 2.6 of the Home Office Guidance, which specifically includes illegal working within licenced premises as a matter Licensing Authorities are to take account of. Paras 4.22, 8.99, 11.18 and 11.26 expand further upon this, and para 11.27 states that “there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises for.....employing a person who is disqualified from that work by reason of their immigration in the UK.”

Paragraph 11.28 says ‘It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.’

We have also been referred to case law which specifically provides that a) deterrence of others is a consideration that this Committee may have in mind (*The Queen on the Application of Bassetlaw District Council v Worksop Magistrates Court [2008] EWHC 3530 Admin*) in making its decision and b) there does not have to be a conviction for an offence under the 2006 Act for a licence to be revoked under the crime prevention objective ( *East Lindsey District Council v Hanif t/a Zara’s Restaurant and takeaway [2016]EWHC 1265 Admin*)

The Council’s existing licensing policy does not specifically make reference to immigration issues but it has been recently revised and the amended version contains the following provisions:-

- 3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.
- The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
  - Illegal working

#### Control Measures

- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:
- a. Effective and responsible management of premises
  - b. Training and supervision of staff
  - c. Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA (British Beer and Pubs Association) Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
  - d. Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 25 policy)
  - e. Provision of effective CCTV and mirrors in and around premises
  - f. Employment of Security Industry Authority licensed door staff
  - g. Provision of toughened or plastic drinking vessels
  - h. Provision of secure, deposit boxes for confiscated items ('sin bins')
  - i. Provision of litterbins and other security measures, such as lighting, outside premises
  - j. Membership of local 'Pubwatch' schemes or similar organisations



### **k. Right to work checks on staff and retention of documents**

The Committee's powers on a review are as follows:-

- Allow the licence to continue unmodified
- Modify the conditions of the licence
- Modify the conditions of the licence for a period not exceeding 3 months.
- Exclude a licensable activity from the scope of the licence
- Exclude a licensable activity from the scope of the licence for a period not exceeding 3 months.
- Revoke a licence
- Remove the Designated Premises Supervisor.

Should the Committee be minded to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representations received. This is made clear in paragraphs 10.8 and 10.10 of the Home Office Guidance. Equally, the Committee should not impose conditions that duplicate the effect of existing legislation, in this case S21 of the Immigration, Asylum and Nationality Act 2006.

We have heard from Ms Powell on behalf of the Police and Mr Clarke from the Immigration Authority. We have also read a letter from Mr Ahmed and he has addressed us in person. However, he has not produced any proper personnel or other records and we note that it was a failure to produce these records evidencing employee status that meant he could not be prosecuted or subjected to a Civil Penalty by the Immigration Authorities.

The evidence we have seen shows that the three individuals concerned admitted working without the proper immigration checks having been undertaken, and furthermore, that one of them also admitted to working for his keep only in breach of other employee rights legislation. Though Mr Ahmed has stated in his letter that the licensee of other premises was overseeing Radhuni during his absence abroad, he has produced nothing whatsoever to substantiate this and we cannot accept a bare statement as being sufficient proof of compliance with his continuing obligations as licensee. Finally, we cannot overlook the fact that this is not a first offence: Mr Ahmed was made subject to an Illegal Working Civil Penalty in April 2011.

The grounds upon which the Police have made this application are that Licensing Objective One, the prevention of crime and disorder, has been breached. The important word is "prevention" and Mr Ahmed has failed to prevent, not for the first time, illegal working. We have considered the decisions of R on the application of Bassetlaw District Council v Worksop Magistrates Court [2008] EWHC 3530 and East Lindsey District Council v Hanif t/a Zarsa Restaurant [2016] EWHC 1265 and are satisfied that even though on this occasion Mr Ahmed has not on this occasion been subject to any penalty, the licensing objective is nevertheless engaged.

This Committee's primary function is the protection of the public. Though we are not a Court and the standard of proof before us is the civil one of the balance of probabilities, we are satisfied that Mr Ahmed engaged the three people referred to in the Police submissions to work unlawfully in this country.

We therefore consider that the premises licence should be revoked under S52 (4) (e) of the Licensing Act 2003 and that revocation is an appropriate step with a view to promoting the crime prevention licensing objective.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licenses remain in force. Mr Ahmed will receive a letter from the Legal Department explaining this.

The meeting ended at 2.30pm.

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 10am on 18 DECEMBER 2017**

Present: Councillor R Chambers (Chairman)  
Councillors G Barker, A Gerard and E Hicks

Officers in  
attendance: A Bochel (Democratic Services Officer), M Chamberlain  
(Enforcement Officer), J Jones (Licensing Officer) and E Smith  
(Solicitor)

Also Present: The drivers in relation to items 3, 4, and 5.

LIC37

**EXCLUSION OF THE PUBLIC AND PRESS**

*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.*

LIC38

**DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S  
LICENCE – ITEM 5**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Licensing Officer.

The driver said that at the time of the crimes he had been charged for, he was very young and was in with a bad crowd. It was unfortunate, but he was not that person anymore. He had two children now, and had had to give up work to look after his wife. Becoming a taxi driver would get him out the house for two and a half hours a day. He was not quite at retirement age yet.

At 10:15, the Committee withdrew to make its determination.

At 10:20, the Committee returned.

**DECISION:**

The application before the Panel today is one dated 3<sup>rd</sup> October 2017 for the grant of a joint private hire/hackney carriage licence. If successful, the driver hopes to drive for 24 x &Ltd of Stansted, doing school contract work.

We have seen a detailed report together with supporting documentation which is listed herewith:-

- a. Uttlesford District Council licensing standards for drivers.

- b. The driver's application form for the grant of a joint private hire/hackney carriage driver's licence dated 03/10/2017.
- c. The driver's Enhanced Disclosure and Barring Service check dated 17 October 2017.
- d. Notes from interview with the driver on 27 October 2017.

When the driver attended at the Council's offices to complete the Right to Work formalities he brought with him an enhanced DBS certificate dated 17<sup>th</sup> October 2017 bespoken by Essex County Council. This revealed the following matters:-

| Date of Conviction | Offence   | Court/Disposal   |
|--------------------|---|--|
| 3 June 1970        | Burglary and Theft Non-Dwelling   | Ipswich Juvenile Fine £5                                     |
| 22 December 1971   | Theft   | Ipswich Juvenile<br>2 yr supervision order                   |
| 5 April 1972       | Theft   | Ipswich Juvenile<br>Care Order                               |
| 28 July 1972       | Taking Motor vehicle without consent<br>Theft<br>Going Equipped for Theft<br>No Insurance | Woodford Crown Court<br>Borstal Training<br>Licence endorsed |
| 26 September 1974  | Theft   | Kingston-upon-Hull Magistrates<br>Fine £40 + costs           |
| 13 February 1976   | Attempt Burglary and Theft Non-Dwelling   | Ipswich Magistrates<br>Fine £25 + costs                      |

As a result of these matters, the driver does not meet paragraph 5 of Appendix A of the Council's Licensing Standards for Drivers.

This states:-

"No criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed."

He was spoken to by the Licensing Officer straight away. In particular he was asked about the July 1972 custodial sentence imposed by Woodford Crown Court. He explained that his upbringing had been along military lines and that when they were 15 years old he and his four brothers were expected to fend for themselves. Both he and his elder brother found themselves in trouble with the police: they had no fixed abode and found themselves in bad company. With three other boys, the driver stole a car and they went joyriding; as the eldest of the group he received the heaviest sentence.

On release, the driver obtained an apprenticeship in a shipyard where he remained until the business closed in 1984. He then worked off-shore for 15 years until family responsibilities called him home, and since then he has been self employed as a plumber. He now has caring responsibilities and requires part time work.

His driving licence is clean and he has no convictions since 1976. Though he is a rehabilitated person in respect of all these offences under the Rehabilitation of Offenders Act 1974, this legislation does not apply to all scenarios, and included among these is the holding of Private Hire and Hackney Carriage Drivers licences.

We have heard from the driver, and we appreciate how he has turned his life around and is the mainstay of his family. We do not consider him to be a risk to the public and we therefore regard him as being a fit and proper person to hold Uttlesford District Council licences. Accordingly we grant this application, and he will receive the paperwork in due course.

LIC39

### **DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE – ITEM 3**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Enforcement Officer.

The driver said it was not in her nature to speed. She had had a clean licence for nineteen years. The incident had happened because she had braked a few seconds too late. She apologised for not informing the Council of the incident.

The Enforcement Officer asked whether the paperwork for the offence had been sent to the driver's employer. The driver said it had, but that she had not been reminded to tell the Council by her employer.

In response to questions by members, the driver said she had only looked through the Council's licensing policy roughly, and had not studied it in detail.

The driver apologised again. She said she enjoyed her job and did not want to jeopardise her living.

At 10:40, the Committee withdrew to make its determination.

At 11:00, the Committee returned.

### **DECISION:**

The application before the Panel today is for the suspension or revocation of the driver's private hire licence number PH/D0456 dated summer 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 30<sup>th</sup> September 2018 and the driver drives for Excellent Connections Ltd t/a Fargolink, carrying out school contract work.

We have seen a detailed report together with supporting documentation which is listed herewith:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Uttlesford District Council conditions of licence for drivers.
- c. Certificate of caution for the driver dated 31 October 2013.

- d. Minutes of Licensing and Environmental Health Committee dated 19 November 2013.
- e. The driver's signed copy of condition paperwork dated 30 September 2015.
- f. Drivercheck of DVLA records dated 26 October 2017.
- g. Notes of meeting with the driver dated 08 November 2017.
- h. Map of location of speeding offence marked by the driver.
- i. Court paperwork supplied by the driver.

The Licensing Department carries out annual DVLA checks on all licensed drivers as part of the Council's due diligence process. The driver's check was carried out on 26<sup>th</sup> October 2017 and revealed a motoring offence. She had been convicted of an SP30 (Exceeding the statutory speed limit) which took place on 20<sup>th</sup> April 2017. She pleaded guilty by post to obtain maximum sentencing discount and was convicted on 23<sup>rd</sup> August 2017. She received six penalty points on her licence and the financial penalty imposed was paid within a week.

Since the driver has six points upon her licence, she does not meet paragraph 2 of Appendix A of the Council's Licensing Standards for Drivers. This states:-

"No convictions or fixed penalty notices endorsed on a driver's licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence"

Furthermore, paragraph 18 (c) of Appendix G of the Council's Licensing Standards requires drivers to notify UDC in writing of:-

"Any convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice"

The driver attended a meeting with the Enforcement Officer on 8<sup>th</sup> November 2017. She said that she had had a clean licence for 19 years and that the offence had occurred on the A138 around Chelmsford. She had been caught by a speed gun in the middle lane of a 50MPH zone having failed to brake soon enough on exiting a 70MPH zone. There was not much traffic on the road and she was alone in the car. She expressed contrition to the Officer, and, confirmed she had pleaded guilty at the earliest opportunity and paid her fine promptly.

We are aware that the driver has previously appeared before us in October 2013 having failed to wear a valid private hire driver's badge, contrary to S54(2) of the 1976 Act. She has never appeared before us in respect of a traffic offence. Having observed her contrition and noted that her employer does bear some responsibility for what has happened, she has nevertheless not made herself familiar with the contents of the Council's Licensing Policy, and we cannot overlook this. We therefore feel that though revocation of the driver's licence would be disproportionate, nor should this matter be overlooked. We feel that a suspension of ten days is appropriate.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the driver is permitted to drive. A letter from the Legal Department explaining the position will be sent to her today, and on the basis that she does not appeal, her suspension will commence on 10<sup>th</sup> January 2018. It is the responsibility of a driver to familiarise themselves with Uttlesford District Council's policy requirements and we will be asking the Licensing Department to write to the driver's employers as well.

LIC40

#### **DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE – ITEM 4**

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Enforcement Officer.

The driver said the report was incorrect to state his wife was suffering from depression. However, he did currently have depression.

The driver said he had been caught speeding driving back from Gatwick, and had paid his fine immediately. However when he received a letter that said he had not paid, he discovered he had two separate fines for two separate speeding offences committed within minutes of each other. He had received a summons to court and had gone expecting to only receive three points on his licence. Instead he had been given six points, and so his total number of points now stood at nine.

The Enforcement Officer explained that the driver had received nine points. Three were for a speeding offence and six for failure to give information as to the identity of the driver. However he should also have received another three points for the other speeding offence on the same day where he was speeding twice as referred to previously. For an unexplained reason, three points had not been added to the driver's licence. In response, the driver said he had been told he would receive six points for the speeding offences, and another three for failure to give information as to the identity of the driver.

Councillor Gerard said that since the driver had previously committed other speeding offences, it did not seem that he was serious about rectifying this trend. The driver said he did around 30,000 miles (I thought he said more but I cannot remember) (it was 80,000 every year for the past 30 years) every year and so occasionally he had fallen foul of speed regulations. Gantries were particularly problematic for this. However he should have had another person in place to deal with administration, because his wife who typically dealt with that part of the business was currently ill.

Councillor Gerard said there were triggers from at least 2012 which could have been responded to. There had now been three instances of the driver failing to disclose information when it had been requested. This indicated the business was not being operated as it could have been. Councillor Hicks said he was concerned about the driver's inability to understand the conditions of the licence and the expectations placed upon him.

The driver said he was under a lot of stress. Revenue had been cut dramatically by Uber and other companies. A taxi firm was a very hard business to run these days. The potential loss of his private hire licence was causing him more stress than ever.

In response to questions from Councillor Barker, the driver said his mother was now doing the administration work at the office. He could not afford to hire someone else. He had been driving the company car when caught speeding.

The driver said he had never had any complaints about his company. He put heart and soul into his business and it was proving very hard to run. Gantries were proving to be a problem for a lot of drivers. He had only ever had a ticket for speeding a couple of miles over the speed limit.

At 11:45, the committee withdrew to make its decision.

At 12:00, the committee returned.

### **DECISION:**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PHD0585 dated summer 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 30<sup>th</sup> September 2018. The driver is also the holder of the private hire operator licence for Connections Cars and is the proprietor of four private hire vehicles.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the following background documents:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Uttlesford District Council conditions of licence for drivers.
- c. Suspension letter dated 15 October 2012.
- d. Suspension letter dated 11 December 2014.
- e. Fixed penalty notice dated 07 December 2016.
- f. Drivercheck of DVLA records for the driver dated 26 October 2017.
- g. Notes of meeting with the driver dated 14 November 2017.

The Licensing Department carries out annual DVLA checks on all licensed drivers as part of the Council's due diligence process. The driver's check was carried out on 26<sup>th</sup> October 2017 and revealed two motoring offences. These were firstly, a SP30 (speeding) offence committed on 10 November 2016 for which his licence was endorsed with three penalty points. Secondly, it also revealed an MS90 offence (failure to give information as to identity of driver) on 19 December 2016 in respect of which he was convicted on 23 May 2017 and for which he received six penalty points on his licence. He therefore has a total of 9 penalty points on his licence and we note that a previous fixed penalty



notice for speeding on 08 January 2014, has dropped off in January 2017 under the totting up procedures.

Since the driver has nine points upon his licence, six of which were imposed on one occasion, he does not meet paragraph 2 of Appendix A of the Council's Licensing Standards for Drivers. This states:-

"No convictions or fixed penalty notices endorsed on a driver's licence within the last three years where 6 or more points have been endorsed in respect of a single offence,"

Furthermore, paragraph 18 (c) of Appendix G of the Council's Licensing Standards requires drivers to notify UDC in writing of:-

"Any convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice"

The driver attended a meeting with the Licensing Officer on 14<sup>th</sup> November 2017. He gave the following explanation:-

- He confirmed that he was the operator of Connection Cars which employs six drivers (including himself) and that he has four vehicles.
- The driver was first asked about the SP30 offence on 10 November 2016 involving travelling at about 38mph in a 30mph zone in Bishops Stortford. He was caught by a speed gun. He was asked why he failed to report this and he said that his wife normally deals with the administration for the business but she is bed bound with chronic fatigue. He also explained that he is suffering from depression and admitted that he is 'letting things slip.'
- The driver was then asked about the MS90 offence and he explained that it was in relation to a speeding offence on the M25. He said that he was caught speeding in both Kent and Essex within approximately four minutes doing about 57mph in a 50mph speed limit. He was not aware that two offences had taken place and paid the Kent fine straight away. He then claimed that he then received a telephone call from Essex Police stating that he failed to respond to their notice of intended prosecution within the given time and was to be summonsed to Colchester Magistrates Court; he claimed that he knew nothing of this notice of intended prosecution. For this offence he was fined a total of £750 and his license was endorsed with six penalty points. He did not appeal the decision. Again, his explanation for failing to notify the Council of this offence amounted to blaming his wife. The driver stated that his wife did the bookings, accounts, dealt with fines and other administration and now mistakes are being made

We have read the papers before us and we have heard from the driver. He has accepted no responsibility for his actions and is blaming everyone but himself for the events of the past year. We appreciate that he may be under stress but nevertheless he has been apprehended on three occasions for speeding, he has failed to disclose information to the police and he has failed to disclose the convictions to Uttlesford District Council

We also note the driver's history, and that is one of failing to disclose speeding offences to the Council. He has shown no contrition, but instead has sought to blame others for his own omissions. His operator's licence is not up for review today, and if the driver is not driving full time, then he has an opportunity to put his house in order.

However, the primary function of this Committee is the protection of the public and we consider that we have no alternative but to revoke the driver's licences under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold them.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licenses remain in force. The driver will receive a letter from the Legal Department explaining this.

The meeting ended at 12pm.

# Agenda Item 3

|                       |  |                                  |
|-----------------------|--|----------------------------------|
| <b>Committee:</b>     | <b>Licensing &amp; Environmental Health</b>  | <b>Date:</b>                     |
| <b>Title:</b>         | <b>Fees for Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operators</b> | 24 January 2018                  |
| <b>Report Author:</b> | <b>Amanda Turner, Licensing Team Leader</b>  | <b>Item for decision:</b><br>Yes |

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## Summary

The purpose of this report is for Members of the Licensing and Environmental Health Committee to review and approve the licence fees in respect of Hackney Carriage, Private Hire and Operator Licences with effect from 3 April 2018

Increases in respect of Hackney Carriage and Private Hire Vehicle Licences and Private Hire Operators Licences must be advertised for a period of 28 days and if any objections are received, they will be reported back to this Committee for consideration.

## Financial Implications

There are cost implications to the Council in undertaking this legal duty and this is recognised in the legislation which gives provision for the Council to recover the costs of administering the scheme and to ensure compliance.

## Background Papers

None

## Impact

|                                 |   |
|---------------------------------|---|
| Communication/Consultation      | Operators and Hackney Carriage proprietors and Trade Association will be emailed and advised of proposed fee structure and it will be advertised in 2 local newspapers circulating the District of Uttlesford and also on our Uttlesford website. |
| Community Safety                | None  |
| Equalities                      | None  |
| Health and Safety               | None  |
| Human Rights/Legal Implications | As set out in the body of this report   |

|                       |      |
|-----------------------|------|
| Sustainability        | None |
| Ward-specific impacts | None |
| Workforce/Workplace   | None |

## Situation

- 1 It is a statutory requirement for this Committee to review and approve the licence fees.
- 2 The Council are legally entitled to charge such a fee for licences and they consider reasonable with a view to recover the costs of the issue and administration of the licence.
- 3 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 the cost of a licence must be related to the cost of the licensing scheme itself. It is therefore appropriate for a local authority to recover their administrative and other associated costs.
- 4 At a meeting of this Committee on 2 August 2015 Members were advised that the income received by Licensing over the following 3 years would be reduced as a result of a change in legislation which was to direct licensing to issue licences for a period of three years and five years where they had previously been issued on an annual basis. There was a risk that the income received may not cover the costs of issuing and administering the Hackney Carriage and Private Hire Driver Licences as well as the Operator Licences as this was the first time that the Council would be issuing licences that are valid for more than a year.
- 5 The fees for Hackney Carriage, Private Hire and Operator Licences are reviewed by the Councils account manager on an annual basis to determine whether the income received from the previous year has been in line with the cost of delivering the service. This review has been undertaken and it has been identified that the projected income received for the financial year 2018 - 2019 will not cover the costs of delivering the service.
- 6 A review of the actual and projected expenditure and income relating to the issue and the administration of licences for Hackney Carriage and Private Hire vehicles, Drivers and Operators has identified a projected deficit of income against expenditure over a 3 year 'cycle' from April 2016 to March 2019 of £151,800. This is shown in Appendix A. A 3 year cycle has been used because of the 3 year duration of driver licenses and the fact that this causes peaks and troughs in the income received over the 3 years. (The peaks and troughs in income resulting from operator licences being of 5 years duration has been ignored in this analysis since the income stream is not material in comparison to the driver analysis and would have necessitated modelling the income and costs over 15 years which would have added more complexity for little gain in accuracy).

- 7 Appendix A also shows that the remaining balance on the licensing reserve of £17,000 was used to fund part of the Taxi licensing operational deficit that was incurred in 2016/17. As a result of the anticipated deficit over the 3 year cycle a review was undertaken into the costings behind each of the taxi licence fees. The results of this costing review is shown in Appendix B which shows the increase in licence fees required in order to fully recover the underlying costs associated with each licence. Appendix B shows the result of the proposed increase in licence fee to the projected 3 year deficit.
- 8 The basis of the costing review for licences fees consisted of an analysis of the time taken and/or cost for each element of the licensing process. A summary of the costings behind the new licence fees is shown in Appendix C
- 9 The proposed fees set out in the table in Appendix B are considered appropriate to recover the administration and associated costs of the service.
- 10 A table showing fees and charges from Essex and neighbouring Authorities is attached for information as Appendix D.
- 11 Members are asked to approve the fee structure proposed in Appendix B to come into effect on 3 April 2018 and that the fees in respect of Hackney Carriage and Private Hire Vehicle Licences and Private Hire Operators Licences be advertised for a period of 28 days in at least one local newspaper circulating in the district. If any objections are received then Members will need to meet to consider the same and must then set a further date (not being later than two months after the first) on which the variation to fees will come into force with or without modification. They will be reported back to this Committee for consideration.

## Risk Analysis

| Risk  | Likelihood   | Impact   | Mitigating actions   |
|---|--|--|--|
| Fees are set as a level in excess of that required to cover the cost of the Licensing Authority | 1 – in preparing the proposed fees officers have kept costs to an absolute minimum | 2 – a surplus would be generated which could be countered by a reduction in future years | Fees are kept under constant review and adjusted as necessary. |

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.

## APPENDIX A

### TAXI LICENSING SPEND AND INCOME FOR 3 YEARS FROM 2016/17 TO 2018/19

Since 1st Oct 2015, driver licences have been issued for a period of 3 years and operator licences for a period of 5 years. Vehicle licences continued to be issued for a period of 1 year. As a result of this change it is necessary when examining the costs and income from taxi licensing to observe them over a number of years to discern the underlying deficit the service operates under. Ideally one would use a duration equal to the lowest common multiple of the licences' durations i.e. 15 years. However, given the relatively low value of the operator licence income stream in comparison with the other 2 income streams it will suffice for our purposes to observe the income and costs of the council's taxi licensing operations over a 3 year period.

|   | 2016-17         | 2017/18<br>Projected | 2018/19<br>Projected<br>(at current fees) |         |
|---|-----------------|----------------------|---|---------|
| All figures have been rounded to the nearest hundred  |                 |                      |   |         |
| <b>Costs relating to the whole of Council's licensing functions<br/>(i.e. premises, animal, taxis etc.)</b> |                 |                      |   |         |
| Staffing costs  | 117,000         | 141,700              | 175,600                                   |         |
| Seminars  | 2,400           | 4,000                | 4,000                                     | Note 1  |
| Supplies  | 600             | 0                    | 600                                       | Note 2  |
| Subscriptions   | 400             | 500                  | 500                                       | Note 3  |
| Management  | 40,900          | 41,700               | 42,500                                    | Note 4  |
| Accountancy   | 3,100           | 3,100                | 3,200                                     |         |
| Legal   | 39,200          | 40,000               | 40,800                                    | Note 5  |
| Internal audit  | 2,100           | 2,200                | 2,200                                     | Note 6  |
| Human resources   | 6,800           | 6,900                | 7,000                                     | Note 7  |
| Printing  | 4,000           | 4,100                | 4,200                                     | Note 8  |
| Mailroom  | 4,600           | 4,700                | 4,800                                     | Note 9  |
| Customer services section   | 17,300          | 17,600               | 18,000                                    | Note 10 |
| ICT   | 31,400          | 32,000               | 32,600                                    | Note 11 |
| Accommodation   | 15,800          | 16,100               | 16,400                                    | Note 12 |
| <b>Total costs relating to the whole of the licensing function</b>  | <b>285,600</b>  | <b>314,600</b>       | <b>352,400</b>                            |         |
| <b>Share of costs relating to taxi licensing =67% (2/3rds)</b>  | <b>191,400</b>  | <b>210,800</b>       | <b>236,100</b>                            |         |
| <b>Costs relating exclusively to Taxi licensing</b>   |                 |                      |   |         |
| Driver CRBs   | 16,300          | 15,000               | 15,000                                    |         |
| Driver checks   | 7,600           | 7,900                | 7,900                                     |         |
| Advertising   | 100             | 100                  | 100                                       | Note 13 |
| Taxi plate materials  | 9,800           | 10,100               | 10,200                                    |         |
| Legal   | 0               | 1,000                | 0   |         |
| Enforcement   | 70,900          | 72,300               | 73,700                                    | Note 14 |
| <b>Total costs relating exclusively to taxi licensing</b>   | <b>104,700</b>  | <b>106,400</b>       | <b>106,900</b>                            |         |
| <b>Total costs attributable to taxi licensing</b>   | <b>296,100</b>  | <b>317,200</b>       | <b>343,000</b>                            |         |
| <b>Taxi licensing income</b>  |                 |                      |   |         |
| Taxi Operator licence income  | 13,500          | 2,800                | 1,400                                     |         |
| Taxi vehicle licence income   | 85,100          | 99,400               | 107,600                                   |         |
| Taxi driver licence income  | 148,800         | 102,300              | 197,000                                   |         |
| Reimbursement of CRB costs  | 16,600          | 15,000               | 15,000                                    |         |
| <b>Total income from taxi licensing</b>   | <b>264,000</b>  | <b>219,500</b>       | <b>321,000</b>                            |         |
| <b>Net (deficit)/surplus on taxi licensing</b>  | <b>(32,100)</b> | <b>(97,700)</b>      | <b>(22,000)</b>                           |         |
| Balance brought forward on licensing reserve at 1st April 2016  | 17,000          |                      |   |         |
| Transfer of licensing deficit to licensing reserve  | (17,000)        |                      |   |         |
| Balance carried forward on licensing reserve at 31st March 2017   | 0               |                      |   |         |

## APPENDIX A continued.

Note 1: Training related expenses

Note 2: Stationery and equipment

Note 3: Professional Subscriptions to The Institute of Licensing

Note 4: Management - made up of two elements; corporate management and direct service management. Corporate management is apportioned to services on staff numbers and direct service mgmt based on % time allocation

Note 5: Legal Services Team general licensing work - the recharge is based on % time allocation

Note 6: Internal Audit Service - the recharge is based on % average of the 3 year Audit Programme

Note 7: Human Resources Service - the recharge is apportioned to services based on staff numbers

Note 8: In-house Print Service - supplies paper etc

Note 9: Includes Postage costs and admin element

Note 10: Customer Service Centre is the first point of contact with the Council and covers, receptions, telephony and cashiering. The costs are recharged to services based on % time allocation

Note 11: Information Communication Technology Service providing system support - the recharge is based on a combination of the number of PCs and telephones as well as software costs

Note 12: Saffron Walden office premises costs and stewarding - apportioned to services based on floor space occupied

Note 13: Advertising of new fees

Note 14: Enforcement Team - the recharge is based on % time allocation

## APPENDIX B

### SUMMARY OF PROPOSED CHANGES IN LICENSING FEES FROM 1ST APRIL 2018

|                     | Current fee<br>(Oct 2015)<br>£ | Proposed<br>fee<br>£ | Increase | Cost per week<br>for proposed<br>fee (£) | Workings<br>reference |
|---------------------|--------------------------------|----------------------|----------|--|-----------------------|
| Drivers             |                                |                      |          |  |                       |
| New licence         | 140                            | 173                  | 23.6%    | 1.11                                     | W1                    |
| Renewal of licence  | 129                            | 160                  | 23.7%    | 1.02                                     | W2                    |
| Vehicle             |                                |                      |          |  |                       |
| New licence         | 50                             | 58                   | 16.9%    | 1.12                                     | W3                    |
| Renewal of licence  | 42                             | 47                   | 12.6%    | 0.91                                     | W4                    |
| Transfer of licence | 23                             | 40                   | 73.9%    |  | W7                    |
| Operator            |                                |                      |          |  |                       |
| New licence         | 350                            | 427                  | 21.9%    | 1.64                                     | W5                    |
| Renewal of licence  | 346                            | 420                  | 21.3%    | 1.61                                     | W6                    |

### EFFECT ON TAXI LICENSING OPERATIONAL DEFICIT FROM PROPOSED INCREASE IN LICENCE FEES

|   | 2016-17  | 2017/18<br>Projected | 2018/19<br>Projected |
|---|----------|----------------------|----------------------|
| Net (deficit)/surplus on taxi licensing at current licence fees     | (32,100) | (97,700)             | (22,000)             |
| Increase in income from proposed rise in fees                       | 52,100   | 38,800               | 61,800               |
| Net (deficit)/surplus on taxi licensing after proposed rise in fees | 20,000   | (58,900)             | 39,800               |

So over a 3 year cycle the proposed increase in licence fees is projected to result in a breakeven position i.e. the costs of running the licensing function are matched by the income generated from taxi licensing.



## APPENDIX C

### WORKINGS BEHIND THE INCREASE IN LICENCE FEES SHOWN IN APPENDIX B

#### W1 ANALYSIS OF CHANGE IN DRIVER NEW LICENCE FEE

|   | Fee set in<br>Oct-15 | Proposed fee<br>Apr-18 | % change | Notes  |
|---|----------------------|------------------------|----------|--------|
| Fee   | 140                  | 173                    | 31%      |        |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                        |          |        |
| Total number of minutes work  | 253                  | 294                    | 21%      | Note 1 |
| Average employee salary cost per hour                               | 18.9                 | 22.9                   | 21%      |        |
| Average employee admin cost per hour                                | 2.0                  | 1.4                    | -29%     |        |
| Average employee recharge cost per hour                             | 10.0                 | 8.6                    | -14%     |        |
| Total avg employee cost per hour (sum of 3 rows above)              | 30.9                 | 32.9                   | 6%       |        |
| <b>Total employee costs (mins/60 x Total avg employee cost p/h)</b> | <b>130.3</b>         | <b>161.0</b>           |          |        |
| <b>Materials/Advertising/Driver checking costs</b>                  | <b>12.0</b>          | <b>12.0</b>            | 0%       |        |
| <b>Total cost of work</b>   | <b>142</b>           | <b>173</b>             |          | Note 2 |

Note 1: Reason for increase in number of minutes (only tasks where timings differ are shown)

|  | Minutes in<br>fee set<br>Oct-15 | Minutes in<br>fee proposed<br>Apr-18 | % change |        |
|--|---------------------------------|--------------------------------------|----------|--------|
| Application process                      | 73.0                            | 86.0                                 | 18%      |        |
| Case notes                               | 11.0                            | 9.0                                  | -18%     |        |
| Cautions                                 | 0.0                             | 8.2                                  |          |        |
| Committee work                           | 33.0                            | 32.6                                 | -1%      |        |
| Work during years 2 and 3 of the licence | 76.0                            | 74.0                                 | -3%      |        |
| Emails                                   | 14.0                            | 25.4                                 | 81%      | Note 3 |
| Letters                                  | 5.0                             | 1.0                                  | -80%     |        |
| Phones                                   | 19.0                            | 20.6                                 | 8%       |        |
| Right to work                            | 0.0                             | 5.7                                  |          | Note 4 |
| Prosecution work                         | 1.0                             | 10.8                                 | 980%     |        |

Note 2: Original workings for the Oct 2015 fee indicate fee should have been £142 instead of £140

Note 3: Greater time spent on emails due to taking into account time spent dealing with emails sent as well as received (in the past only time spent on emails received were included in the costing)

Note 4: Time taken undertaking 'Right to work' checks was not included in the costing of the fee set in Oct 2015

## APPENDIX C continued

### W2 ANALYSIS OF CHANGE IN DRIVER RENEWAL LICENCE FEE

|   | Fee set in<br>Oct-15 | Proposed fee<br>Apr-18 | % change | Notes  |
|---|----------------------|------------------------|----------|--------|
| Fee   | £129                 | £160                   | 24%      |        |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                        |          |        |
| Total number of minutes work assumed                                | 231                  | 270.7                  | 17%      | Note 1 |
| Average employee salary cost per hour                               | 19                   | 22.9                   | 21%      |        |
| Average employee admin cost per hour                                | 2                    | 1.4                    | -30%     |        |
| Average employee recharge cost per hour                             | 10                   | 8.6                    | -14%     |        |
| Total avg employee cost per hour (sum of 3 rows above)              | 31                   | 32.9                   | 6%       |        |
| <b>Total employee costs</b> (mins/60 x Total avg employee cost p/h) | <b>119</b>           | <b>149</b>             | 25%      |        |
| <b>Materials/Advertising/Driver checking costs</b>                  | <b>11</b>            | <b>11</b>              | 0%       |        |
| <b>Total cost of work</b>   | <b>130</b>           | <b>160</b>             | 22%      | Note 2 |

Note 1: Reason for increase in number of minutes (only tasks where timings differ are shown)

|  | Minutes in<br>fee set<br>Oct-15 | Minutes in<br>fee set<br>Apr-18 | %<br>change |        |
|--|---------------------------------|---------------------------------|-------------|--------|
| Application process                      | 63.3                            | 68.0                            | 7%          |        |
| Case notes                               | 9.7                             | 8.7                             | -11%        |        |
| Cautions                                 | 0.2                             | 8.2                             | 4366%       |        |
| Committee work                           | 30.0                            | 32.6                            | 9%          |        |
| Work during years 2 and 3 of the licence | 69.8                            | 74.0                            | 6%          |        |
| Emails                                   | 13.4                            | 25.2                            | 88%         | Note 3 |
| Letters                                  | 4.3                             | 1.1                             | -75%        |        |
| Phones                                   | 17.4                            | 20.6                            | 18%         |        |
| Prosecution work                         | 1.3                             | 10.8                            | 740%        |        |

Note 2: Original workings behind the Oct 2015 fee indicate the fee should have been £130 rather than £129

Note 3: Greater time spent on emails due to taking into account time spent dealing with emails sent as well as received (in the past only time spent on emails received were included in the costing)

## APPENDIX C continued

### W3 ANALYSIS OF CHANGE IN VEHICLE NEW LICENCE FEE

|   | Fee set in<br>Oct-15 | Proposed fee<br>Apr-18 | %<br>change | Notes  |
|---|----------------------|------------------------|-------------|--------|
| Fee   | 50.0                 | 58.4                   | 16.9%       |        |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                        |             |        |
| Total number of minutes work  | 102.0                | 103.3                  | 1.3%        |        |
| Average employee salary cost per hour                               | 14.8                 | 18.6                   | 25.7%       |        |
| Average employee admin cost per hour                                | 1.9                  | 1.5                    | -21.1%      |        |
| Average employee recharge cost per hour                             | 8.8                  | 7.1                    | -19.3%      |        |
| Total avg employee cost per hour (sum of 3 rows above)              | 25.5                 | 27.2                   | 6.7%        |        |
| <b>Total employee costs</b> (mins/60 x Total avg employee cost p/h) | <b>43.4</b>          | <b>46.8</b>            | 8.0%        |        |
| <b>Materials/Advertising/Driver checking costs</b>                  | <b>8.6</b>           | <b>11.6</b>            | 35.2%       | Note 1 |
| <b>Total cost of work</b>   | <b>51.9</b>          | <b>58.4</b>            | 12.5%       | Note 2 |

Note 1: Advertising of new fees and equipment (plates etc)

Note 2: Workings behind the Oct 2015 fee indicate cost should have been £51.9 rather than £52

### W4 ANALYSIS OF CHANGE IN VEHICLE RENEWAL LICENCE FEE

|   | Fee set in<br>Oct-15 | Proposed<br>fee<br>Apr-18 | %<br>change | Notes  |
|---|----------------------|---------------------------|-------------|--------|
| Fee   | 42.0                 | 47.3                      | 12.6%       |        |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                           |             |        |
| Total number of minutes work  | 93.9                 | 92.3                      | -1.7%       |        |
| Average employee salary cost per hour                               | 15.1                 | 18.7                      | 12.4%       |        |
| Average employee admin cost per hour                                | 1.9                  | 1.5                       | -17.9%      |        |
| Average employee recharge cost per hour                             | 8.9                  | 6.8                       | -19.7%      |        |
| Total avg employee cost per hour (sum of 3 rows above)              | 25.9                 | 27.0                      | -1.2%       |        |
| <b>Total employee costs</b> (mins/60 x Total avg employee cost p/h) | <b>40.5</b>          | <b>41.5</b>               | 2.3%        |        |
| <b>Materials/Advertising/Driver checking costs</b>                  | <b>3.2</b>           | <b>5.8</b>                | 82.4%       | Note 1 |
| <b>Total cost of work</b>   | <b>43.7</b>          | <b>47.3</b>               | 8.2%        | Note 2 |

Note 1: Advertising of new fees and equipment (plates etc)

Note 2: Workings behind the Oct 2015 fee indicate cost should have been £43.7 rather than £42

## APPENDIX C continued

### W5 ANALYSIS OF CHANGE IN OPERATOR NEW LICENCE FEE

|   | Fee set in<br>Oct-15 | Proposed<br>fee<br>Apr-18 | %<br>change | Notes  |
|---|----------------------|---------------------------|-------------|--------|
| Fee   | 350.0                | 426.5                     | 21.9%       |        |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                           |             |        |
| Total number of minutes work  | 527.0                | 667.9                     | 26.7%       | Note 3 |
| Average employee salary cost per hour                               | 27.9                 | 26.3                      | -5.7%       |        |
| Average employee admin cost per hour                                | 1.1                  | 1.0                       | -9.1%       |        |
| Average employee recharge cost per hour                             | 10.4                 | 11.0                      | 5.8%        |        |
| Total avg employee cost per hour (sum of 3 rows above)              | 39.4                 | 38.3                      | -2.8%       |        |
| <b>Total employee costs</b> (mins/60 x Total avg employee cost p/h) | <b>346.1</b>         | <b>426.3</b>              | 23.2%       |        |
| <b>Materials/Advertising/Driver checking costs</b>                  | <b>8.8</b>           | <b>0.2</b>                | -97.7%      | Note 1 |
| <b>Total cost of work</b>   | <b>354.9</b>         | <b>426.5</b>              | 20.2%       | Note 2 |

**Note 1:** The fall in this cost is due to a fall in the advertising cost which is in turn caused by a combination of fall in cost of placing adverts as well as the costs being shared out among far greater number of vehicle licences than first anticipated (advertising is carried out jointly for change in vehicle and operator licence fees) as well as an assumption of a change in fees every 3 years instead of every year which of course only requires advertising every 3 years rather than annually.

**Note 2:** Workings for fee set in Oct 2015 indicate fee should have been £355 instead of £350

**Note 3:** Analysis of the main reasons for increase in the number of mins spent on new operator licence

|                  | Minutes for the fee |        | diff       |
|------------------|---------------------|--------|------------|
|                  | Oct-15              | Apr-18 |            |
| Case notes       | 81                  | 23     | -58        |
| Cautions         | 3                   | 24     | 22         |
| Committee work   | 133                 | 110    | -23        |
| Emails           | 127                 | 71     | -56        |
| Phone calls      | 81                  | 55     | -25        |
| Prosecution work | 34                  | 314    | 280        |
|                  |                     |        | <u>140</u> |

## APPENDIX C continued

### W6 ANALYSIS OF CHANGE IN OPERATOR RENEWAL LICENCE FEE

|   | Fee set in<br>Oct-15 | Proposed<br>fee<br>Apr-18 | % change | Notes  |
|---|----------------------|---------------------------|----------|--------|
| Fee   | 346.0                | 419.7                     | 21.3%    |        |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                           |          |        |
| Total number of minutes work  | 519.0                | 655.0                     | 26.2%    | Note 3 |
| Average employee salary cost per hour                               | 28.1                 | 26.4                      | -6.0%    |        |
| Average employee admin cost per hour                                | 1.1                  | 1.0                       | -9.1%    |        |
| Average employee recharge cost per hour                             | 10.4                 | 11.0                      | 5.8%     |        |
| Total avg employee cost per hour (sum of 3 rows above)              | 39.6                 | 38.4                      | -3.0%    |        |
| <b>Total employee costs</b> (mins/60 x Total avg employee cost p/h) | <b>342.5</b>         | <b>419.2</b>              | 22.4%    |        |
| <b>Materials/Advertising/Driver checking costs</b>                  | <b>8.8</b>           | <b>0.5</b>                | -94.3%   | Note 1 |
| <b>Total cost of work</b>   | <b>351.3</b>         | <b>419.7</b>              | 19.5%    | Note 2 |

**Note 1:** The fall in this cost is due to a fall in the advertising cost which is in turn caused by a combination of fall in cost of placing adverts as well as the costs being shared out among far greater number of vehicle licences than first anticipated (advertising is carried out jointly for change in vehicle and operator licence fees) as well as an assumption of a change in fees every 3 years instead of every year which of course only requires advertising every 3 years rather than annually.

**Note 2:** Workings for fee set in Oct 2015 indicate fee should have been £351 instead of £346

**Note 3:** Analysis of the main reasons for increase in the number of mins spent on new operator licence

|                     | Minutes per fee |        | diff       |
|---------------------|-----------------|--------|------------|
|                     | Oct-15          | Apr-18 |            |
| Application process | 33              | 30     | -3         |
| Case notes          | 81              | 23     | -58        |
| Cautions            | 3               | 24     | 22         |
| Committee work      | 133             | 110    | -23        |
| Emails              | 127             | 71     | -56        |
| Phone calls         | 81              | 55     | -25        |
| Prosecution work    | 34              | 314    | 280        |
|                     |                 |        | <u>137</u> |

APPENDIX C continued

**W7 ANALYSIS OF CHANGE IN VEHICLE LICENCE TRANSFER FEE**

|   | Fee set in<br>Oct-15 | Proposed<br>fee<br>Apr-18 | %<br>change |
|---|----------------------|---------------------------|-------------|
| Fee   | 23.0                 | 40.0                      | 73.9%       |
| <b><u>DATA BEHIND CALCULATION OF THE FEE</u></b>                    |                      |                           |             |
| Total number of minutes work  | 54.0                 | 90.0                      | -1.7%       |
| Average employee salary cost per hour                               | 15.1                 | 18.7                      | 12.4%       |
| Average employee admin cost per hour                                | 1.9                  | 1.5                       | -17.9%      |
| Average employee recharge cost per hour                             | 8.9                  | 6.8                       | -19.7%      |
| Total avg employee cost per hour (sum of 3 rows above)              | 25.9                 | 27.0                      | -1.2%       |
| <b>Total employee costs</b> (mins/60 x Total avg employee cost p/h) | <b>23.3</b>          | <b>40.4</b>               | 73.5%       |
| <b>Total cost of work</b>   | <b>23.3</b>          | <b>40.4</b>               | 73.5%       |

Appendix D

Fees and charges from Essex and neighbouring Uttlesford Authorities - December 2017.

|          |         | Uttlesford  |            | Harlow                 |           | Chelmsford    |           | Braintree |         | Colchester |            |
|----------|---------|-------------|------------|------------------------|-----------|---------------|-----------|-----------|---------|------------|------------|
|          |         | New         | Renewal    | New                    | Renewal   | New           | Renewal   | New       | Renewal | New        | Renewal    |
| Drivers  | HC      | £140.00     | £129.00    | £356.00                | £280.00   | NA            | NA        | £271.00   | £271.00 | £279.00    | £179.00    |
|          | PHV     | £140.00     | £129.00    | £356.00                | £280.00   | NA            | NA        | £271.00   | £271.00 | £279.00    | £179.00    |
|          | Joint   | £140.00     | £129.00    | NA                     | NA        | £219.00       | £212.00   | £271.00   | £271.00 | £279.00    | £179.00    |
| Vehicles | Hackney | £50.00      | £42.00     | £324.00                | £292.00   | £527.00       | £371.00   | £332.00   | £332.00 | £315.00    | £315.00    |
|          | PHV     | £50.00      | £42.00     | £324.00                | £292.00   | £317.00       | £309.00   | £288.00   | £288.00 | £279.00    | £275.00    |
| Operator |         | £350.00     | £346.00    | £692.00                | 1 to 2    | 3-            | 3-        | £479.00   | £479.00 | £295.00    | £295.00    |
|          |         |             |            | £1,649.00              | 3 to 5    | £743.00       | £743.00   |           |         | 2+ £350    | 2+ £350    |
|          |         |             |            | £3,181.00              | 6 to 10   | 4+            | 4+        |           |         |            |            |
|          |         |             |            | £5,096.00              | 11 to 15  | £2,599.00     | £2,599.00 |           |         |            |            |
|          |         |             |            | £7,777.00              | 16+       |               |           |           |         |            |            |
|          |         | Southend    |            | Brentwood              |           | Castle Point  |           | Tendering |         | South Cams |            |
|          |         | New         | Renewal    | New                    | Renewal   | New           | Renewal   | New       | Renewal | New        | Renewal    |
| Drivers  | HC      | £350.00     | £243.00    | £300.00                | £240.00   | NA            | NA        | NA        | NA      | £215.00    | £115.00    |
|          | PHV     | £350.00     | £243.00    | £300.00                | £240.00   | £310.00       | £140.00   | £274.00   | £274.00 | £215.00    | £115.00    |
|          | Joint   | £350.00     | £243.00    | £300.00                | £240.00   | £375.00       | £178.00   | £274.00   | £274.00 | NA         | NA         |
| Vehicles | Hackney | £280.00     | £280.00    | £243.00                | £243.00   | £450.00       | £300.00   | £334.00   | £334.00 | £125.00    | £100.00    |
|          | PHV     | £247.00     | £247.00    | £225.00                | £225.00   | £250.00       | £200.00   | £334.00   | £334.00 | £125.00    | £100.00    |
| Operator |         | £1,022.00   | £1,022.00  | £325.00                | £325.00   | £500.00       | £500.00   | £367.00   | £367.00 | £95.00     | 1 Vehicle  |
|          |         |             |            | 2 to 5                 |           | 2+            | 2+        | 2+        | 2+      | £165.00    | 2 Vehicles |
|          |         |             |            | £1,085.00              | £1,085.00 | £1,000.00     | £1,000.00 | £153.00   | £153.00 | £320.00    | 3 to 5     |
|          |         |             |            | 6+                     | 6+        |               |           |           |         | £390.00    | 6 to 10    |
|          |         |             |            | £1,345.00              | £1,345.00 |               |           |           |         | £450.00    | 11 to 20   |
|          |         |             |            |                        |           |               |           |           | £580.00 | 21+        |            |
|          |         | Cams City   |            | East Herts             |           | Epping Forest |           | Rochford  |         | Thurrock   |            |
|          |         | New         | Renewal    | New                    | Renewal   | New           | Renewal   | New       | Renewal | New        | Renewal    |
| Drivers  | HC      | £230 - 1yr  | 80 - 1yr   | NA                     | NA        | £186.00       | £186.00   | NA        | NA      | £340.00    | £300.00    |
|          | PHV     |             | £220 - 3yr | £369.00                | £264.00   | £186.00       | £186.00   | NA        | NA      | £268.00    | £228.00    |
|          | Joint   | N/A         | N/A        | £369.00                | £264.00   | NA            | NA        | £160.00   | £160.00 | £445.00    | £405.00    |
| Vehicles | Hackney | £270.00     | £220.00    | £308.00                | £274.00   | £277.00       | £277.00   | £280.00   | £280.00 | £217.00    | £217.00    |
|          | PHV     | £270.00     | £200.00    | £308.00                | £274.00   | £277.00       | £277.00   | £225.00   | £225.00 | £313.00    | £313.00    |
| Operator |         | £200 - 1 yr | £200 - 1yr | £258.00                | £258.00   | £105.00       | £105.00   | £400.00   | £400.00 | 1 Vehicle  | £350.00    |
|          |         | £800 - 5 yr | £800 - 5Yr | £30 per vehicle over 6 |           | 2+            | 2+        | £400.00   | £400.00 | 2 to 4     | £1,205.00  |
|          |         |             |            |                        |           |               |           | £400.00   | £400.00 | 5+         | £2,490.00  |
|          |         |             |            |                        |           |               |           |           |         |            | £3,690.00  |
|          |         |             |            |                        |           |               |           |           |         |            | £4,590.00  |
|          |         |             |            |                        |           |               |           |           |         |            | 21+        |

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# Agenda Item 4

**Committee:** Licensing and Environmental Health      **Date:**  
**Title:** Evaluation and Implementation of Sections 165 and 167 of the Equality Act 2010      24 January 2018  
**Report Author:** Joanne Jones, Licensing Officer      **Item for decision:**  
No

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## Summary

1. This report is for information only and has been submitted to advise Members of the commencement of Section 165 and 167 of the Equality Act 2010 (the Act).

## Recommendations

2. That Members note the content of this report

## Financial Implications

3. None. There are no costs associated with the recommendations

## Background Papers

4. None.

## Impact

- 5.

|                                 |   |
|---------------------------------|---|
| Communication/Consultation      | School contract providers were contacted and confirmed that their vehicles are not available for hire by the public.  |
| Community Safety                | None  |
| Equalities                      | Publication of a voluntary list of wheelchair accessible vehicles would improve information available for wheelchair users who wish to use Licensed vehicles. |
| Health and Safety               | None  |
| Human Rights/Legal Implications | None  |
| Sustainability                  | None  |

|                       |      |
|-----------------------|------|
| Ward-specific impacts | None |
| Workforce/Workplace   | None |

## Background

- In the preparation of this report the author referred to the Department for Transport Statutory Guidance “Access for wheelchair users to Taxis and Private Hire Vehicles”  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf)

The Government enacted Sections 165 and 167 of the Equality Act 2010 with effect from 6 April 2017 in respect to hackney carriage and private hire drivers, vehicles and operators, to make public transport more accessible for members of the community, including disabled people. In 2010 the Act placed a duty on all hackney carriage and private hire drivers to carry guide/assistance dogs at no extra cost to the passenger and obliged those drivers who could not carry assistance dogs on medical grounds to apply for an exemption certificate.

The legislation has now been further extended to include similar protections for wheelchair users by way of implementing sections 165 and 167 of the Act. **Section 165** places a duty on drivers of wheelchair accessible hackney carriage and private hire vehicles listed by the local authority under s167 to carry passengers in wheelchairs and to provide assistance loading and unloading the passenger and handling the passenger’s luggage. Section 166 gives drivers the possibility of applying for an exemption from these duties on medical or physical grounds. **Section 167** gives local authorities a power (but not a duty) to maintain lists of hackney carriages and private hire vehicles that are suitable for carrying persons in wheelchairs – ‘designated vehicles’.

It is important to note that licensing authorities are not obliged to produce a list of ‘designated vehicles’. However, should an authority decide not to maintain such a list, the criminal provisions giving protection to wheelchair users, under s165 will not come into effect.

## Situation

- Currently Uttlesford District Council does not maintain a list of proprietors that operate wheelchair accessible hackney carriage or private hire vehicles. Of the 1791 private hire vehicles licensed by this Authority 260 are wheelchair accessible, but all of these vehicles are licensed by operators who use them solely for school/adult social care contract work. Of the 83 hackney carriage vehicles licensed by this authority 2 are wheelchair accessible.
- Before preparing this report the Licensing Officer contacted the 6 school contract operators to ask whether their vehicles could be made available for use by the general public if their details were included on our website. Two did not reply, but 3 replied that their vehicles would not be available for general private hire and one replied that they would be happy to help if the vehicle was

not being used for a contracted journey. In practice this would mean that if such vehicles were to be included on a 'designated list' they would not actually be available for use by the general public.

9. Officers considered publishing a list of 'designated vehicles' consisting of the 2 hackney carriage vehicles only and then publishing the contact details of the private hire operator that runs wheelchair accessible vehicles and who is happy to make them available to the public if they are not being used on contracted work. However, having consulted with our legal advisor this is not an option as if a Local Authority decides to produce a list of 'designated' vehicles there is no discretion over which vehicles are included. The Equality Act 2010 Section 167 subsections 1 and 2 states:

1. A licensing authority may maintain a list of vehicles falling within subsection (2).
2. A vehicle falls within this subsection if-
  - (a) It is either a taxi or a private hire vehicle, and
  - (b) It conforms to such accessibility requirements as the licensing authority thinks fit.

All vehicles that meet the criteria would need to be on the list including all of the school contract vehicles BUT this would not be of assistance to disabled passengers because these vehicles would not be available for hire by the public. In addition the administrative burden of maintaining such a list and keeping it up-to-date would be high given the number of vehicles that this authority licences.

## **Conclusion**

Officers consider that, given the nature of the private hire trade in Uttlesford, publishing a list of 'designated vehicles' would not help improve access to transport for disabled passengers. The administrative burden of maintaining a designated list of vehicles that are wheelchair accessible would outweigh the benefit to the public as the vast majority of the vehicles would not be available for hire. However, Officers do intend to produce a voluntary list of vehicle proprietors that operate wheelchair accessible vehicles as this would provide useful information to the disabled community and would mean that only vehicles that are genuinely available to the public would appear on the list. Whilst drivers who refuse to comply with s165 of the Equality Act 2010 could not be prosecuted if an authority decides to produce a voluntary list, conditions could be applied to licences which enable the authority to investigate alleged discrimination and take appropriate action, such as reviewing whether the driver remained a fit and proper person to hold a taxi or PHV licence.

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**Committee:** Licensing and Environmental Health

**Date:**

**Title:** Enforcement

24 January 2018

**Report Author:** Marcus Watts, Environmental Health Manager (Protection)

**Item for decision:**  
No

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## Summary

1. This report is to inform members of the enforcement activities since the last committee meeting on 12<sup>th</sup> April 2017.

## Recommendations

2. That members note the contents of this report.

## Financial Implications

3. None arising from this report.

## Background Papers

4. None

## Impact

- 5.

|                                 |      |
|---------------------------------|------|
| Communication/Consultation      | None |
| Community Safety                | None |
| Equalities                      | None |
| Health and Safety               | None |
| Human Rights/Legal Implications | None |
| Sustainability                  | None |
| Ward-specific impacts           | None |
| Workforce/Workplace             | None |

## Situation

6. In accordance with the Licensing Policy, suspensions are issued in accordance with the Council's protocol for dealing with suspensions, revocation and non-renewal of drivers' licences. When considering exercising these powers, the Council first writes to the driver and invites he/she to the Council offices for an informal interview. This gives officers the opportunity to consider the drivers comments upon the allegations made against them. Following this meeting the driver is informed of any appropriate sanction.

14 suspensions were issued for failing to notify the council of a fixed penalty notice within 7 days (Condition 18c of the Conditions of Licence). A summary of the suspensions issued by delegated powers in accordance with the procedures given in the Licensing Policy are provided within table below.

| <b>Date of interview</b> | <b>No of days suspended</b> |
|--------------------------|-----------------------------|
| 4 <sup>th</sup> April    | 4                           |
| 4 <sup>th</sup> April    | 2                           |
| 3 <sup>rd</sup> May      | 5                           |
| 3 <sup>rd</sup> May      | 10                          |
| 4 <sup>th</sup> May      | 3                           |
| 11 <sup>th</sup> May     | 5                           |
| 5 <sup>th</sup> June     | 5                           |
| 15 <sup>th</sup> Aug     | 3                           |
| 15 <sup>th</sup> Aug     | 3                           |
| 16 <sup>th</sup> Aug     | 4                           |
| 16 <sup>th</sup> Aug     | 2                           |
| 16 <sup>th</sup> Aug     | 4                           |
| 24 <sup>th</sup> Aug     | 7                           |
| 11 <sup>th</sup> Oct     | 3                           |

7. Members should note, that in accordance with Para 8.10 of the Council's Licensing Policy, the starting point for a suspension for a first case of breach of condition should be 5 days.
8. Variations in the number of days of suspension relate to differences in the drivers aggravating or mitigating factors for non-compliance. It should be noted that there have been no appeals against these decisions.
9. Five licensed vehicles have been suspended by Enforcement Officers under delegated powers. These suspensions were made due to damaged vehicles or arising from proprietors failing to have their vehicles tested. One licence was subsequently surrendered and four

vehicles had their suspensions lifted when they reached the Council's licensing standards.

10. Powers to take urgent action is outside the scope of the policy but is provided under part 3 of UDC's constitution. This decision rests with chief officers and deputy chief officers "in consultation" with the Chairman of the appropriate committee.
11. Revocations using these powers were issued under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 on 6<sup>th</sup> July and 17<sup>th</sup> September.
12. In October, Council Officers successful prosecuted a man for the offence of making a false statement to obtain a licence (section 57(3) Local Government (Miscellaneous Provisions) Act 1976), that licence being a private hire/hackney carriage driver's licence. On his application for a licence, he stated that he had never been disqualified from driving and had never been convicted of an offence. His enhanced DBS check revealed that he had a 12 month disqualification from driving in 2001 for drink-driving and a conditional discharge for assault in 2003.
13. In November, an applicant accepted a caution for making a false statement to obtain a licence. This was because he failed to declare previous convictions on his application form that showed on his enhanced DBS check. The driver withdrew his application for a licence.
14. On three occasions during the summer months joint enforcement exercises were conducted with Essex Police and Transport for London (TFL). The main strategic aims of the operation for UDC were:
  1. Gather intelligence on taxi services operating at the airport
  2. Ensure compliance with UDC vehicle and driver standards
  3. Ensure compliance with the smoking ban and associated requirements
  4. To engage with and work proactively with partner organisations to meet common goals
  5. Enhance public safety
15. The multi-agency was considered a success and further exercises around Stansted Airport are planned for 2018. A further report on the value and outcomes of these exercises shall be presented at the next Licensing and Environmental Health Committee.

### **Risk Analysis**

16. There are no risks attached to this report.

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