

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on MONDAY, 25 SEPTEMBER 2017 at 10.00
am**

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 AND PRESS

RESOLVED to exclude the public and press for the following items on the
grounds that they contained exempt information within the meaning of s.1 etc

**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 licence.

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.

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.

LIC28

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.

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