

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held in the COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on TUESDAY, 31 OCTOBER 2017 at 10.00 am

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

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

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

LIC29 EXCLUSION OF THE PUBLIC AND PRESS

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 DRIVERS LICENCE

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 DRIVERS LICENCE

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