

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on WEDNESDAY, 12 SEPTEMBER 2018 at
7.30 pm**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, J Davey, A Gerard, M Foley, E Hicks, S
Morris.

Officers in

Attendance: M Chamberlain (Enforcement Officer), T Cobden (Environmental
Health Manager (Commercial), B Ferguson (Democratic Services
Officer), O Rawlings (Licensing Consultant), E Smith (Solicitor) and
M Watts (Environmental Health Manager – Protection)

Also Present: B Drinkwater and D Perry (Uttlesford Licensed Operators and
Drivers Association – ULODA).

LIC47 PUBLIC SPEAKING

Doug Perry and Barry Drinkwater spoke to the Committee. Summaries of their
statements are appended to these minutes.

LIC48 MINUTES OF PREVIOUS MEETINGS

The minutes of the previous meetings held on 16 July, 31 July, 14 August and 21
August 2018 were approved and signed by the Chairman.

Members noted that the minutes of the meeting held on 27 June 2018 had not
been included in the agenda and would be taken for approval at the following
Committee meeting.

LIC49 STATEMENT OF PRINCIPLES GAMBLING ACT 2005

The Committee considered the Statement of Principles – Gambling Act report,
along with the appended Draft Statement of Gambling Policy 2018-21.

The Council's Gambling Policy Statement allowed the Council, as a Licensing
Authority, to outline the considerations it would make in determination of
Gambling Act applications. This draft Policy was only for minor changes (as the
existing policy had been recently revised in 2017) therefore subject to just a 6
week consultation exercise. Only one response was received to this
consultation. This was from William Hill who stated that they did not agree with a
full variation being required on the installation of privacy screens around gaming
machines.

Members considered the Council's draft Statement of Gambling Policy 2018-2 in light of the representation from William Hill. Members agreed with the draft of the policy document set before them, and that it should be recommended in its current form to Full Council.

RESOLVED to recommend to Full Council that the final draft Statement of Gambling Policy 2018-2 be adopted.

LIC50 **ENFORCEMENT UPDATE - APRIL TO JUNE 2018**

Members considered the report by the Enforcement Officer. The report outlined enforcement activity undertaken by the Council between 1 April to 30 June 2018.

LIC51 **ENVIRONMENTAL HEALTH (COMMERCIAL) ACTIVITY REPORT**

Members considered the report by the Environmental Health Manager – Commercial, summarising environmental health commercial activity between 1 January and 30 June 2018.

LIC52 **ENVIRONMENTAL HEALTH (PROTECTION) UPDATE - VERBAL REPORT**

The Environmental Health Manager – Protection provided a verbal update on the work of his department.

Members discussed the issue of Air Quality and, in particular, 'bias adjustment factors' which were used to assess whether air quality was approaching dangerous levels.

Councillor Gerard said there was particular concern regarding air quality in his Ward of Newport.

The Environmental Health Manager – Protection said he would meet with the district councillors from Newport before the end of the month to discuss this in more detail. At the Chairman's request, he also agreed to write to Newport Parish Council to provide information on the subject of air quality.

The meeting was adjourned at 8.35pm.

The meeting was reconvened at 8.40pm.

LIC53 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Enforcement Officer presented his report to the Panel.

It had come to the Council's attention that Mr Andrew Logan, a holder of a private hire/hackney carriage driver's licence issued by this Authority, had been

imprisoned for 14 months after admitting offences of threatening to damage or destroy property and causing criminal damage following an incident in Bishop's Stortford on 23 April 2018. Mr Logan had also moved address without notifying the Council within seven days of the move, a breach of the conditions of his licence.

Members considered whether Mr Logan was a 'fit and proper' person to hold a private hire/hackney carriage licence as he had been imprisoned for a violent offence.

The Chairman read out the decision notice.

Decision Notice

The application before the Panel today is for the suspension or revocation of Mr Logan's limited joint private hire/hackney carriage licence number PH/HC0970 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The licence is due to expire on 28th February 2019.

Mr Logan was employed as a mechanic at a Council approved testing station so currently only held a restricted private hire/hackney carriage driver's licence since he did not transport members of the public but merely road tested the licensed vehicles, and by law only licensed drivers can drive licensed vehicles. However, it has recently come to the Council's attention that Mr Logan has been imprisoned for 14 months after admitting the offences of threatening to damage or destroy property and causing criminal damage following an incident in Bishops Stortford on 23 April 2018. A copy of the news reportage is before us.

Mr Logan rang up his ex-partner at 11.45pm that night telling and told her that he was two minutes away and that he had a knife and that he would 'burn her out.' A few hours later he arrived at the driveway of her father's house where she was staying, and started to beep his horn and flash the lights. He then attacked the house itself and damaged the front door. When Mr Logan was sentenced he told the recorder that 'you will be judged too one day' and swore at him and his former girlfriend. When he was taken to the cells he continued to shout and punch the walls. As Mr Logan's licence is limited, he is not required to meet the requirements of paragraphs 5-11 of Appendix A of the Council's standards for drivers.

Furthermore, according to licensing records Mr Logan was last known to be living at 2 High View, Duton Hill, Dunmow, Essex, CM6 2DY. However, the newspaper article indicates that Mr Logan was living at an address at Woodfields, Stansted. Mr Logan appears to have also therefore breached one of the conditions that do apply to a limited licence, as he is required to notify the Council in writing of a change of address within seven days (condition 18a, Appendix G).

We have read the papers before us and we note Mr Logan is still in custody. It is unlikely that he will be released before his licence expires by effluxion of time:

however, we regard his behaviour as being so serious that even though Mr Logan is not licensed to drive passengers, in the interests of the proper protection of the public we consider that we have no alternative but to revoke Mr Logan's licence with immediate effect under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold it.

There is a right of appeal against this decision which must be exercised within a period of 21 days. Mr Logan will receive a letter from the Legal Department explaining this.

LIC54 EXCLUSION OF 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.

Councillors Barker and Gerard left the meeting at 8.50pm.

LIC55 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The driver had surrendered his licence and there was nothing for the Committee to consider.

LIC56 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The Enforcement Officer presented his report to the Panel.

The driver had applied to this authority on 7 June 2018, for the grant of a private hire/hackney carriage driver's licence. On the application form the driver answered 'no' to the question 'have you ever been refused, or had revoked or suspended, a hackney carriage or private hire driver's licence?'

Following a meeting with the driver, the Licensing Officer checked the licensing records and found that the driver had a previous licence suspended in 2011; the licence was then revoked by the Licensing and Environmental health Committee in 2012. Furthermore, the driver was found guilty of four offences on 14 August 2012, and found guilty on 9 April 2013 of driving a private hire vehicle without a licence.

Members considered whether the driver was a 'fit and proper' person to be issued a licence, in light of his failure to disclose the fact that his licence had previously been suspended and revoked. In addition, he had also failed to disclose the relevant licensing convictions on his application.

The Chairman read the decision notice.

Decision Notice

The driver's application dated 7th June 2018 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from 24 x 7 Ltd carrying out school contract work.

The Council's standard application form asks a number of questions about an applicant's antecedent history. A copy of the form completed by the drivers is before us and he has been provided with a copy prior to the hearing today.

One of the questions is "Have you ever been refused or had revoked or suspended a hackney carriage or private hire driver's licence?"
The drivers answered no to this.

Another is, "Have you ever been convicted of ANY offence (including motoring offences) including spent and unspent convictions in any Court or received a police caution?"

The driver answered that he was convicted of drink driving in 2002 and had a 12 month disqualification which was reduced to 8 months. He also confirmed that he had been convicted of failing to stop after an accident and he received five penalty points on his licence.

On 13 July 2018, the driver attended a right to work check with the Licensing Officer. In this meeting the Officer went through the drivers' paperwork and his application form. During the meeting he was asked whether he had ever been a licensed driver before, and he stated that he had been previously licensed with Uttlesford.

After the meeting the Licensing Officer checked the department's records and discovered that the driver previously had had a private hire/hackney carriage driver's licence that had been revoked by this Committee. At a subsequent meeting with the officer the driver stated that he remembered attending Committee but that his licence had elapsed and was not revoked, drivers having got caught up in problems between the driver's former employer and UDC. This was noted down on the application form.

In fact, the Council's records show the driver appeared before the Licensing and Environmental Health Committee on 30 March 2011 and his licence was suspended for 28 days between 2-30 May 2011 because in breach of condition 18e of Appendix G of the Council's Licensing Standards the driver had failed to contact notify the Council within seven days of his conviction for failing to stop and report an accident. He was invited in on two occasions for a meeting with the former Assistant Chief Executive Legal, but on both occasions did not attend or contact the Council. Therefore, the former Assistant Chief Executive Legal did refer the drivers' licence to Committee which resulted in the significant length of the suspension.

On 28 June 2012, the drivers' private hire/hackney carriage driver's licence was revoked by the Licensing and Environmental Health Committee. He did not

appeal this decision. The background to this is set out in detail in the report before us today and the driver has received a copy of this: briefly, however, the matters before the Committee included carrying passengers in unlicensed vehicles, when the journeys had not been booked through a licensed operator, failing to wear his driver's badge, smoking in the vehicle contrary to the Health Act 2006, possession of cannabis, (for which the drivers received a Police caution), and failing to notify the Council of the caution and of a change of address, contrary to conditions 18a and c of Appendix G of the Licensing Standards for Drivers.

On 14 August 2012, the driver was convicted in his absence for two counts of failing to wear his driver's badge, one count of driving a PHV not displaying the licence plate, and of the Health Act offence. He was fined £600 in total, ordered to pay costs of £606.80 and a £15 victim surcharge.

Later that year, on 19 November 2012, the driver was caught driving a licensed private hire vehicle without a PHV licence and without insurance. He twice failed to attend an interview under caution in respect of the offence of driving a private hire vehicle without a licence. He was subsequently convicted of this offence in absentia on 09 April 2013. He was fined £400, ordered to pay costs of £490.92 and a victim surcharge of £40.

The Enforcement Officer attempted to telephone the driver on 09 August 2018, to discuss the reasons why the driver did not disclose this information on his application form but did not get a response. Making a false statement to obtain a licence is an offence under section 57(3) Local Government (Miscellaneous Provisions) Act 1976, but although the Environmental Health Manager (Protection) has deemed it not in the public interest to prosecute the driver his application was referred to this Committee for determination.

This application has already been adjourned to enable the driver to attend. Both the Enforcement Officer and 24 x 7 Ltd have gone above and beyond the call of duty to make him aware of this hearing, However, he has not attended, and sadly we cannot help but note that there is a long history of breaches of the Council's licensing conditions and of relevant offences – failure to wear the driver's badge, failure to display vehicle plates, carrying passengers knowing the journey has not been lawfully pre-booked, plus of course the Health Act and Misuse of Drugs Act convictions.

Though the driver is a rehabilitated person in respect of these matters since they were punished by way of fines only, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before us. Our primary function is the protection of the public and we consider that we have no alternative but to refuse this application since we do not believe the driver to be a fit and proper – safe and suitable – person to hold a licence, given his history of failure to comply with the requirements of one.

There is a right of appeal against this decision which must be exercised within a period of 21 days. The drivers will receive a letter from the Legal Department explaining this.

The meeting ended at 9.05pm.

Public Speaking

Doug Perry said the CCTV scheme was in need of urgent review and a consultation was required with all stakeholders; he hoped ULODA would be closely involved.

In relation to the Licensing Review that was being undertaken by the Council, Mr Perry expressed concern regarding the way in which the Council dealt with disqualified drivers. He said he was not happy that a driver, regardless of their offence, would not be granted a licence for three years following disqualification. He hoped the review would give due prominence to the principle of 'each case to be judged on its own merits' and that this would be reflected in the new Licensing Policy that was currently being drafted.

Barry Drinkwater also spoke on the Licensing Review. He hoped ULODA would be given an opportunity to comment on the findings of the review before the definitive report was presented to Committee at a later date. He highlighted the example of 'knowledge testing' and said it would be inappropriate for drivers who worked on school contracts, often travelling the same journey from home to school each day, to be subject to these new tests. He said he was aware of at least one neighbouring authority which exempted school drivers from such knowledge testing.

Mr Drinkwater congratulated Andy Mahoney, Managing Director of 24x7 Ltd, who had been nominated for two Essex Business Excellence Awards (EBEA) – Entrepreneur of the Year and Not-for-Profit Organisation award – and wished him well for the awards ceremony on 2 October. At the invitation of the Chairman, Mr Drinkwater read out the statement Mr Mahoney had provided to the event organisers of the EBEA.

The Chairman thanked both speakers for their statements and congratulated Mr Mahoney on his nominations.

With regards to the CCTV scheme, the Chairman said there would be partnerships between the trade and the Council. If the scheme was to go ahead, 2,800 cars would be outfitted with CCTV. However, the Licensing Policy review was the Council's priority for the time being.

The Chairman said it would be right for the trade to have their say on the revised Licensing Policy and confirmed ULODA would have an opportunity to comment. In relation to the proposed knowledge testing for school contract drivers, he said it was essential that they too underwent these tests. Safety would always be the principal concern of the Council's licensing policy and it would be dangerous not to test drivers who were responsible for transporting children.