

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON  
WALDEN, ESSEX CB11 4ER, on TUESDAY, 30 OCTOBER 2018 at 10.00 am**

Present: Councillor R Chambers (Chairman)  
Councillors M Foley, A Gerard and E Hicks

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

**LIC57 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.*

**LIC58 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE - ITEM 3**

Members considered and noted the report.

**LIC59 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE - ITEM 6**

The Chairman moved Item 6 forward in the proceedings because the driver was attending.

The Chairman introduced the Panel and explained procedure to those present.

The Enforcement Officer gave a summary of the report.

Members viewed evidence recorded by the complainant against the driver which showed him speeding on the M11.

The driver said he wanted to apologise to the Committee and had written to the complainant to apologise as well. As soon as he had seen he was above the limit, he had slowed down. Work had been busy that night and he had been eager to move on to his next job. Work as a taxi driver was important to him and he did not want to lose his licence.

In response to a Member question, the driver said he had not felt under pressure from his employer to finish that particular job as soon as possible.

At 10.40, the Committee retired to make its decision.

At 11.20, the Committee returned.

The decision was read to the driver.

## DECISION NOTICE

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PH/HC2765 dated 31<sup>ST</sup> May 2018 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The licence is due to expire on 30<sup>th</sup> April 2021. He is currently employed by 24 x 7Ltd as an airport driver and the complaint before us was referred to the Council by them.

On 16 August 2018, the driver accepted a journey from Stansted Airport to Little Chesterford commencing at 02.18 hours. The journey ended at 02.44 hours. The passenger later made a complaint to 24x7 Limited that the driver was driving in excess of 100mph with the passenger on board. The company apologised to the passenger and provided a full refund.

Martin Cockburn, a manager at 24x7 Limited at Stansted Airport used their tracking information which proved that the driver was driving up to 104mph. The tracking device also showed that the driver was consistently driving at well above the 70mph speed limit for motorways.

Our attention has been drawn to the MoJ Speeding (revised 2017) Sentencing Guidelines which state that if a speed limit is 70mph, and the recorded speed is 101mph or above then the driver could be disqualified for a period of between 7-56 days or receive six penalty points. The Court can then consider further adjustments for any aggravating or mitigating factors when sentencing. One of these aggravating factors is 'driving for hire or reward.'

The Enforcement Officer carried out a telephone interview with the driver on 04 September 2018. His notes of the conversation are before us, and we observe that the driver pointed out the following matters:

- He had held a DVLA licence since 2008 and it is currently clean.

- In 2010 he received three penalty points for speeding doing around 80mph in a 70mph zone. This was the only time that he was caught speeding.
- The driver said that he believed that there were three passengers on board during the journey in question.
- The speeding took place on the M11 northbound and the driver said that the road was quite clear.
- He stated that he was speeding to get the passengers home and when he realised how fast he was he slowed down. The passenger did not apparently ask him to slow down.
- The driver apologised for his actions.

We have read the papers before us and we have heard from the driver. We note his contrition but we cannot overlook the speed at which he was travelling or the admissions he made to the Enforcement Officer. Nor can we overlook the fact that the passengers felt it necessary to take film footage of the journey and thereafter made a formal complaint.

Our attention has been drawn to the Government's Sentencing Guidelines for speeding offences. Though we are not bound by them, we accept that this offence is at the higher end of the scale and is aggravated by the fact that the driver was driving for reward.

He has raised the question of hardship, but unfortunately this is something we cannot take into consideration.

Paragraph 8 of Appendix G to the Council's Licensing Standards for Drivers requires drivers to

"Take all reasonable steps to ensure the safety of passengers"

The primary function of this Committee is to ensure the safety of members of the travelling public. In driving at the speed he was recorded as so doing, the driver clearly ignored this obligation, and though so far as we are aware the Police

have not become involved or a Notice of Intended Prosecution served, he was nevertheless committing a serious offence and therefore in the interests of the proper protection of the public we consider that we have no alternative but to revoke the driver'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. The driver will receive a letter from the Legal Department explaining this.

LIC60

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

The Committee considered the report.

The decision was read to those present.

#### **DECISION NOTICE**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 0205 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. She has been licenced in Uttlesford since 3<sup>rd</sup> August 2015 and her current licence is due to expire on 31<sup>st</sup> July 2019. Her last known driving role was with 24 x 7 Ltd and she left their employment over two years ago. The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and every three years after that. Also required is a three year DVLA mandate to enable annual checks to be made as part of the due diligence process. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical certificate, DBS check and DVLA mandate all expired on 31<sup>st</sup> July 2018..

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the

month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check.

Correspondence sent by post was returned by the Royal Mail, so the driver was contacted by email on 20<sup>th</sup> September 2018 and was told that if she wanted to remain licensed then she must provide these documents by 20<sup>th</sup> September 2018. She has not done so.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that failure to provide an up to date medical or DBS check is a breach of Council policy; the checks are vital to establish that a driver is medically fit enough to drive, and has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. She will receive a letter from the Legal Department explaining this.

LIC 61 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE - ITEM 5**

The Committee considered the report.

The decision was read to those present.

DECISION NOTICE –

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 0506 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 9<sup>th</sup> April 2015 and his current licence is due to expire on 31<sup>st</sup> March 2019. His last known driving role was with 24 x 7 Ltd.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and every three years after that. Also required is a three year DVLA mandate to enable annual checks to be made as part of the due diligence process. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical certificate, DBS check and DVLA mandate all expired on 31<sup>st</sup> March 2018..

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check.

Correspondence sent by post was returned by the Royal Mail, so the driver was contacted by email on 21<sup>st</sup> August 2018 and was told that if he wanted to remain licensed then he must provide these documents by 28<sup>th</sup> August 2018. He has not done so.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that failure to provide an up to date medical or DBS check is a breach of Council policy; the checks are vital to establish that a driver is medically fit enough to drive, and has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. She will receive a letter from the Legal Department explaining this.

LIC 62 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE - ITEM 7**

The Committee considered the report.

The decision was read to those present.

**DECISION NOTICE**

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 1306 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 17<sup>th</sup> August 2015 and his current licence is due to expire on 31<sup>st</sup> July 2019. His last known driving role was with Greenair Cars who advised the Council his employment with them had ended.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and every three years after that. A fresh DVLA mandate is required every three years to enable annual DVLA checks to be undertaken as part of the due diligence process. All these checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical certificate, DVLA mandate and DBS check all expired on 31<sup>st</sup> July 2018..

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the

month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check.

The driver was contacted in writing on 25<sup>th</sup> September 2018 and was told that if he wanted to remain licensed then he must provide these documents by 11<sup>th</sup> October 2018. He has not done so.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that failure to provide an up to date medical or DBS check is a breach of Council policy; the checks are vital to establish that a driver is medically fit enough to drive, and has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. He will receive a letter from the Legal Department explaining this.

LIC63 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE - ITEM 8**

The Committee considered the report.

The decision was read to those present.

DECISION NOTICE –



The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence no PH/HC 0531 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. She has been licenced in Uttlesford since 4<sup>th</sup> March 2015 and her current licence is due to expire on 28<sup>th</sup> February 2019. Her last known driving role was with Excellent Connections Ltd t/a Fargolink.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and every three years after that. These checks assist the Council in establishing whether an individual is a 'fit and proper' person to hold a licence. The driver's last group 2 medical certificate expired on 12<sup>th</sup> February 2018 and her DBS check on 28<sup>th</sup> February 2018..

Normal practice at UDC is to send out reminder letters to drivers for DBS checks that are due to expire on the first working day of the month which precedes the month when the check expires. The reminders for medicals are typically sent out on the 15<sup>th</sup> day of the month preceding the expiry of that check.

The driver was contacted in writing on 26<sup>th</sup> September 2018 and was told that if she wanted to remain licensed then she must provide these documents by 12<sup>th</sup> October 2018. She has not done so.

Condition 12 of Appendix A of the Council's Licensing Standards requires drivers to meet "...Group 2 medical standards as published by the Dept of Transport."

Compliance with this standard is a legal requirement, and without a certificate we have no means of knowing whether this requirement is satisfied. This Committee considers that failure to provide an up to date medical or DBS check is a breach of Council policy; the checks are vital to establish that a driver is medically fit enough to drive, and has not received any criminal convictions in the period since their last DBS check. Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied that the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect.

The driver has a right of appeal against this decision to the Magistrates Court, and that any such appeal must be lodged within 21 days. Normally, the revocation would come into effect following the end of the appeal period, but since the revocation is because of failure to supply a medical certificate in the interests of public safety, this period of grace will not apply. She will receive a letter from the Legal Department explaining this.

The meeting ended at 11.25.