

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on TUESDAY, 18 DECEMBER 2018 at 10.00
am**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, E Hicks and J Loughlin.

Officers in
Attendance: M Chamberlain (Enforcement Officer), B Ferguson (Democratic
Services Officer), Jo Jones (Licensing Officer) and E Smith
(Solicitor).

Also Present: The drivers in relation to items 4, 5 and 6; B Drinkwater (ULODA -
representing the driver in relation to item 5).

LIC72 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.*

**LIC73 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER
APPLICATION**

The Chairman brought Item 6 forward in proceedings for the benefit of the driver
present.

The Chairman introduced the Panel and explained procedure to the driver.

The Enforcement Officer gave a summary of the report.

The driver had previously held a private hire/hackney carriage driver's licence
with Uttlesford District Council from 16 February 2017 until it was revoked, due
to no fault of his own, on 16 August 2018. It was revoked as he no longer met
Group 2 medical standards following a heart attack.

The driver had now satisfactorily completed a new group 2 medical on 1
November 2018 and had reapplied for his licence. To grant the licence would be
contrary to the Council's licensing standards, as the driver's licence had been
revoked within the past three years. Members were reminded that they could
make an exception to this policy, but would need to give clear reasons for doing
so.

At 10.15, the Committee retired to make its decision.

At 10.21, the Committee returned.

The decision was read to the driver.

Decision Notice

The driver's application before us today dated 7th November 2018 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from 24 x 7 Ltd on school contract runs.

The driver previously held a licence with UDC granted on 16th February 2017. It was revoked with immediate effect by the Environmental Health Manager (Commercial) under delegated powers on 16th August 2018 because the driver had suffered a heart attack and was therefore medically unfit to drive. No possible blame can attach to him.

He passed his Group 2 medical examination on 1st November.

As the driver had his previous licence revoked in August this year, he does not meet the Council's Licensing Standards for drivers. Standard 11 of Appendix A reads:

'Not to have had a hackney carriage and/or private hire driver's licence revoked within the last 3 years.'

Clause 2.7 of the policy gives delegated authority to refuse licences where applicants do not meet the Council's licensing standards. Officers cannot grant a licence in such cases but if it is considered the circumstances are such that an exception to policy could be made the application may be referred to the Licensing and Environmental Health Committee for determination. This is such a case.

We have heard from the driver this morning and are pleased to note his recovery. Accordingly we grant this application, and he will receive the paperwork in due course. We wish him well.

LIC74

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

The Chairman moved Item 4 forward in the proceedings because the driver was in attendance.

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

The Licensing Officer gave a summary of the report.

The applicant had applied for the grant of a private hire/hackney carriage driver's licence on 30 October 2018. As part of the process, the driver submitted an enhanced DBS certificate, which showed 10 convictions dating from 9 July 1965 to 13 December 1977. The applicant did not meet licensing standards due to a conviction during this time which had led to a custodial sentence.

The driver said he had turned his life around following his custodial sentence and had held down a stable job for 35 years and raised a family. He had retired earlier this year but now wanted to go back to work as a taxi driver so he could continue to contribute to the community.

Members were asked to consider whether the driver was a 'fit and proper person' to hold a licence despite not meeting the Council's licensing standards.

At 10.35, the Committee retired to make its decision.

At 10.45, the Committee returned.

The decision was read to the driver.

Decision Notice

The driver's application dated 30th October 2018 is for a Private Hire/Hackney Carriage Applicant's licence. If successful, he has an offer of employment from 24 x 7 Ltd.

The driver's application disclosed a 1990 speeding offence in respect of which he is a rehabilitated person. However, an enhanced DBS check obtained by 24 x 7 which he handed to the Council also disclosed ten historic convictions upon dates between 1965 and 1972, some of which were juvenile offences. The certificate was dated 11th October 2018 and confirms that the applicant does not meet Point 5 of the Council's Licensing Standards, which state that an applicant must have:-

"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."

The Enhanced DBS Check revealed the following matters:-

1. 9/7/65 – Larceny – Conditional Discharge – Islington JJ
2. 26/8/66 – Larceny – Attendance – Islington JJ
3. 27/10/69 – Theft – Fined £5.00 – Billericay JJ
4. 16/6/70 – TWOC, no driving licence, no insurance – 2 years probation/2 year disqualification – Southend Borough JJ
5. 11.10.71 – Theft – Fined £50.00 – Billericay JJ
6. 31/8/72 – TWOC, no licence, no insurance – 12 months disqualification, fined £50 – Thames JJ.
7. 1/9/72 – obtaining a pecuniary advantage by deception – fined £75, plus legal aid contribution and costs – Southend Borough JJ
8. 16/11/72 – theft x 1, burglary and theft x 2 – Borstal training – Southend Crown Court
9. 4/8/76 – ABH, TWOC, no insurance, failure to provide a specimen, minor road traffic offence x 2 – 120 hours community service, 12 months disqualification, £75 fine and costs – Rochford JJ.

10. 13/12/77 – minor road traffic offence x 2, driving whilst disqualified, no insurance – 3 months imprisonment, fined £170 - Grays JJ. Varied on appeal to Chelmsford Crown Court.

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.

In support of his application, the applicant says that all these offences took place many years ago, his life lacked purpose, and as far as the most serious offence, the burglary, is concerned, he was part of a bad group of people at the time. The last of these convictions was in 1977 and since his release from Borstal he took steps to change his life. He remained in work at a tractor plant in Basildon for 35 years, married and raised a family and now has four grandchildren. He has an offer of work from 24 x 7 Ltd on school runs if he is granted a licence today.

Unfortunately in aggregate, these are serious matters and although the overwhelming majority of them took place years ago, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee.

However, we have listened to what the applicant has to say and note that he has the support of his employer. We are satisfied that he has turned his life around, and accordingly we grant this application, and he will receive the paperwork in due course.

LIC75 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chairman introduced the Panel and explained procedure to the applicant and his representative.

The Enforcement Officer summarised the report for the Committee's consideration.

The driver had held a private hire/hackney carriage driver's licence with Uttlesford District Council since 13 August 2015. Following a recent DVLA drivercheck, officers revealed that the driver had two offences which had not been disclosed to the Council. These were:

- IN10 offence (using a vehicle without insurance) on 10 October 2017. He was convicted on 12 March 2018 and his licence was endorsed with six penalty points.
- TS20 offence (failing to comply with double white lines) on 22 February 2018. He was convicted on 04 August 2018 and his licence was endorsed with three penalty points.

As well as breaching the conditions of his licence due to non-disclosure of offences, he was also in breach of licensing standards as he had received six

penalty points for the IN10 offence. As the driver no longer met the Council's licensing standards, it was for the Committee to consider whether the driver remained a fit and proper person to retain a licence.

Mr Drinkwater, on behalf of the driver, said both offences had occurred during a difficult period in the driver's life and whilst he was not living in his family home. Prior to these offences, the driver had maintained a clean licence for over twenty years. In mitigation, the IN10 was incurred because the driver had changed his private vehicle's number plate without informing the insurance company (he had, however, informed the DVLA) and, by doing so, had invalidated his existing insurance. Mr Drinkwater said this was an administrative error and not a nefarious attempt to undermine the law.

The driver addressed the Committee. He said he was very sorry for the offences and for not notifying the Council. His life was now in a far better place and he had learnt from his mistakes; he said he was now fully aware of the terms and conditions of his licence.

Two employer references were tabled for the Committee's consideration. Mr Drinkwater affirmed that the driver's employer were very keen to retain his services.

At 11.40, the Committee retired to make its decision.

At 12.30, 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 a driver's joint private hire/hackney carriage licence number PH/HC1296 dated 13th August 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 31st July 2019. The driver works for 24 x 7 Ltd on the airport side of their operations but he has told us today that he hopes to move onto full time school contract work.

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 background documents annexed thereto

Sadly, the updating of the driver's enhanced Disclosure and Barring Service (DBS) check, group two medical and DVLA mandate were found to be overdue earlier this year. He attended the Council Offices on 16 October 2018 and produced a new group two medical and DVLA mandate, and also completed a new DBS form. According to their records the driver was sent his new certificate on 29 October but he did not produce this to the Licensing Department until 30th November.

However, the new DVLA mandate allowed the obtaining of a new DVLA Drivercheck upon him, dated 18 October 2018. This revealed that he had two offences which were:

- IN10 offence (using a vehicle without insurance) on 10 October 2017. He was convicted on 12 March 2018 and his licence was endorsed with six penalty points.
- TS20 offence (failing to comply with double white lines) on 22 February 2018. He was convicted on 04 August 2018 and his licence was endorsed with three penalty points.

Neither of these offences were disclosed to the Council.

Condition 18c of Appendix G of the private hire/hackney carriage driver's conditions of licence states that they must notify UDC in writing of 'any convictions, cautions or fixed penalty notices within seven days of the date of conviction, caution or the issue of a fixed penalty notice.'

The driver has breached these conditions of licence on two occasions in the last 12 months and did not even disclose the fact when he attended the Council Offices on 16 October. We take these failures into account.

More importantly, as a result of receiving six penalty points for a single offence, the driver no longer meets the Council's Licensing Standards for drivers.

Paragraph 2 of Appendix A thereof states:

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

On 28 November 2018, the driver emailed the Enforcement Officer and explained the broad outlines surrounding the convictions and gave further background to his breaches of conditions. A copy is included among our papers and we have read it carefully. On the following day, the Enforcement Officer carried out a telephone interview with the driver to obtain further information, and the following disclosures were made:- .

The IN10 offence happened when the driver was using his private vehicle. This vehicle was on a personalised plate and he had agreed to sell it so had reinstated the original licence plate. However, he did not notify the insurance company and although there was an insurance policy it did not have the correct registration number and was therefore invalid. As a result he received six penalty points and a fine of around £600.

The T20 offence took place when the driver was merging onto the M11 from M25 going southbound, again in his personal vehicle. He crossed the lines before he should have and this matter was reported by the Police. He explained that he enquired with the Police at the time as to whether he would get penalty points, and they told him he would probably have to do a course. However, while this offence was pending, he was living away from home and so did not see the letters. He subsequently received 3 penalty points and a fine of over £100.

Finally, the driver was asked if he was aware of his driver's conditions of licence and he said that he had read them when his licence was granted but he had not looked at them since. He explained that he did not think he had to report penalty points to the Council unless he had over six points.

We have read the papers before us and we have heard from the driver and from Mr Drinkwater, representing him this morning. We have also read two references submitted to us today.

We understand that the administrative procedures needed to change a private number plate on a car are complex and time consuming. However, the documentation needed to the procedure explains what is required, and insurance policies similarly explain the notification requirements if any changes are made to vehicle details, and the consequences of failure. Driving without a valid policy insurance in place is a serious offence.

We have debated this case anxiously among ourselves, and we have taken into account the Council's policy, case law, and the mitigation put before us on behalf of the driver. We have also taken into account that the driver has been fined over £700 by the Courts and that he has nine points on his licence.

We have also taken into consideration the fact that the driver did not notify the Council at the time the offences took place: he also failed to notify when he met with officers on 16th October. We had to find out via the DVLA disclosure. This, when coupled with the failure to refresh his memory regularly regarding his regulatory obligations, is also of considerable concern.

However, in this case we do not consider revocation of the licences to be merited: nevertheless, we cannot let these matters go unsanctioned, and we are therefore minded to suspend the driver's licences. This suspension will be for a period of 28 days.

There is a right of appeal against this decision which must be exercised within a period of 21 days. This period runs from the date of formal notification of the Committee's decision, that is, today. The suspension will therefore begin on 9th January 2019, and the driver will receive a letter from the Legal Department explaining this.

Councillor Hick's left the meeting at 12.35.

LIC76 **DETERMINATION OF A PRIVATE HIRE OPERATOR'S LICENCE**

The Chairman proposed to move the meeting back into the public domain. The Committee agreed.

The Operator had not attended the meeting, nor had he responded to any correspondence from the Enforcement Officer.

The Committee considered the Enforcement Officer's report.

Stansted Airport Cars held a private hire operator's licence which was due to expire on 31 August 2021 but records indicated that the operator did not have any licensed vehicles in operation. In addition, a search of Companies House showed that the company was dissolved on 20 February 2018.

On the 7 November 2018, the Enforcement Officer carried out visits to both the residential and business addresses of the Operator. At both addresses it was clear that the Operator had moved on without notifying the Council of a change in address. This was in breach of the Council's licensing conditions.

Furthermore, the Operator's DBS check had expired on 31 October 2018 and he had failed to supply a new one.

Members were asked to consider whether the Operator remained a fit and proper person having failed to comply with the conditions of his licence.

At 12.40, the Committee retired to make its decision.

At 12.50, the Committee returned.

The Chairman read the decision notice.

Decision Notice

The application before the Panel today is for the suspension or revocation of Stansted Airport Cars Ltd's private hire operator's licence number PH0048 dated 12th September 2016, in accordance with S62 Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31st August 2021. The registered office of the company was 12 Stansted House, Stansted Business Park, Stansted CM24 1AE and the holder of the operator's licence was one Donald Wright who ceased to hold a driver's licence on 31st October. Records show that the company does not hold any vehicle licences and was last known to have two drivers: however, the nature of the industry is such that working arrangements are casual and many licensed drivers do not notify the Council when they change workplace.

We have had the opportunity of reading the officer's report in this case, together with Uttlesford District Council's licensing standards for operators and a bundle of documents from Companies House showing Stansted Airport Cars Ltd was dissolved on 20th February 2018. The dissolution of a company is the equivalent of the death of a natural person and we note that Mr Wright was the sole director and shareholder of this company. We are satisfied on the balance of probabilities that the limited company was an alter ego for Mr Wright and that the reality is that they were one and the same.

The Enforcement Officer made a number of enquiries. Mr Wright was liable for business rates at 12a Stansted House, Stansted Business Park, Stansted, Essex, CM24 1AE between 2 September 2016 to 30 May 2017. No change of address has ever been notified. Accordingly on 07 November 2018, the Enforcement Officer carried out a visit to the operating address. 1AE. There was no office number 12 as they were split into smaller offices. A neighbour stated

that Stansted Airport Cars used to have the offices for 12a, 12b and 12c but that the offices had been re-let and there was no signage for Stansted Airport Cars in place. The Officer then visited the residential address given for Mr Wright and was told that Donald Wright was her son-in-law but they were estranged, they had no contact number for him and that he moved out about three years ago.

Condition 6 of Appendix H of the Council's Licensing Standards for Operators states that 'the operator is required to notify the Assistant Chief Executive – Legal [now the Licensing Dept] in writing within 7 days of:

- a. Any change in his or her residential address.
- b. Any change in his or her business address.'

Mr Wright has clearly breached these requirements and it therefore follows that that Condition 3 of the same Appendix cannot be complied with as the Council's officers cannot exercise their powers under S56(3) of the 1976 Act as they do not know where he is living and/or working from.

Furthermore, all licensed private hire operators are required to undergo basic Disclosure and Barring Service (DBS) checks upon application and every three years to assist the Council in ensuring that they are 'fit and proper.' Mr Wright's last DBS check expired on 31 October 2018 and he has failed to supply a new one despite a reminder letter being sent to him on 06 September 2018. All correspondence directed to him has been returned to the Council by the Royal Mail.

The primary function of this Committee is the protection of the public and we consider that we have no alternative but to revoke Mr Wright's operator licence under S62 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 Wright will receive a letter from the Legal Department explaining this.

The meeting ended at 12.55.