

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, CB11 4ER, on TUESDAY, 26 MARCH 2019 at 10.00 am**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, M Foley and E Hicks

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain
(Enforcement Officer), R Coox (Legal Assistant/Para Legal),
J Jones (Licensing Officer) and E Smith (Solicitor)

Also present: The drivers in relation to items 3 and 5, B Drinkwater.

LIC89 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

LIC90 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The Chairman read the procedure for determining licenses to the applicant.

The Licensing Officer gave a summary of the report. The driver applied to the authority for the grant of a joint private hire/hackney carriage driver's licence. An enhanced Disclosure and Barring Service (DBS) certificate showed 3 convictions as follows: Theft by Employee, Common Assault on Adult and Failing to report an accident for which he received a fine and points on his licence. The applicant therefore did not meet the Council's licensing standards as, although the convictions were spent in accordance with the Rehabilitation Act 1974, point 5 of the Licensing Standards – Drivers states 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".

Barry Drinkwater noted that the applicant's application was being sponsored by the Managing Director of the firm he wanted to work for.

The applicant said he had been a taxi driver since 2004, and had not experienced any issues. His previous convictions were matters of regret. On the matter of the conviction for theft, he had been sharing a van with colleagues who had been stealing from their employer, and while he had not been involved in the crime and had not been aware of it, he had been advised to plead guilty. His boss paid the fine for him as he knew he had not carried out the thefts.

At 10.35, the Committee retired to make its decision.

At 10.45, the Committee returned.

The decision was read to the applicant.

DECISION NOTICE

The applicant's application dated 20th December 2018 is for a Private Hire/Hackney Carriage Driver's licence. He has held licences with other authorities since 1973 and has been licensed by Stevenage Borough Council since 2011. His current licence with them expires this June, and his employer, Diamond Cars, have requested him to obtain an Uttlesford licence so he can drive school contract vehicles here.

The applicant's application disclosed a 2004 motoring offence in respect of which he is a rehabilitated person. However, he also handed in an enhanced DBS check dated 4th December 2018 disclosed two historic convictions dated 1973 and 1983. They mean that the applicant does not meet Point 5 of the Council's Licensing Standards, which state that a driver 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 relevant matter:-

10.8.73 – Theft – Reading CC – 9 months imprisonment suspended for 2 years.

Though he is a rehabilitated person in respect of this offence 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 and the fact that other authorities have granted him licences does not oblige UDC to do so.

In support of his application, the applicant explained that in 1973 his then employer accepted that no responsibility for the offence concerned, he merely happened to be present when the arrest was made – the firm paid his fine and he retained his employment, while the 1983 matter referred to in the report was essentially self-defence following a successful application for the reduction of a maintenance order. A copy of the Licensing Officer's notes of a conversation with him regarding these matters is included among our papers, and the applicant has already been supplied with a copy. Unfortunately though there is strong mitigation, these are serious matters and although they took place years ago, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee.

However, we have listened to what Mr Drinkwater has to say on behalf of the applicant and note that he has the support of his employer. The applicant also spoke upon his own behalf. We note that he has been licensed by Stevenage BC for eight years and they confirm he is in good standing: the purpose of this application is to enable him to be transferred from one part of his employer's

business to another, and accordingly we grant this application, and he will receive the paperwork in due course.

LIC91 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The driver in relation to Item 4 was not present and had given no notice that she intended to attend.

The Enforcement Officer gave a summary of the report.

The Council required all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. The driver's enhanced DBS check, group 2 medical and DVLA mandate had expired and the driver had not responded to attempts by the Council to contact her. She therefore failed to meet the standard required by Uttlesford District Council of its licensed drivers.

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/HC1326 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. She has been licenced in Uttlesford since 25th August 2015 and her current licence is due to expire on 31st July 2019.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check, a group 2 medical examination, and to provide a DVLA mandate to allow annual scrutiny of driving records 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 has not supplied any of these documents, and her DBS check and Group 2 certificate both expired on 31st 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 15th day of the month preceding the expiry of that check.

The driver was formally contacted in writing by the Enforcement Officer on 15th January 2019 and was told that if she wanted to remain licensed then she must provide these documents by 31st January 2019. 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.

LIC92

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

The driver in relation to Item 6 was not present and had given no notice that he intended to attend.

The Enforcement Officer gave a summary of the report.

The Council required all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. The driver's enhanced DBS check, group 2 medical and DVLA mandate had expired and the driver had not responded to attempts by the Council to contact him.

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/HC1226 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 19th June 2015 and his current licence is due to expire on 31st May 2019.

His last known address for licensing purposes does not correspond with the one held by other departments of the Council for other purposes and we note in passing that this amounts to a breach of the notification provisions required by paragraph 18a of Appendix G of the Council's Licensing Standards for Drivers, which require written notification of a move within seven days.

The Council requires all drivers to undergo a group 2 medical examination, enhanced DBS check, and to provide a DVLA mandate to allow annual scrutiny of driving records 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 has not supplied any of these documents and his last medical certificate and DBS check expired on 31st May 2018.

Normal practice at UDC is to send out reminder letters for medical certificates on the 15th day of the month preceding the expiry of that check. DBS check reminders are sent out on the first working day of the month of expiry.

The driver was formally contacted in writing at his current address by the Enforcement Officer on 28th December 2018 was then told that if he wanted to remain licensed then he must provide all three documents by 16th January 2019. 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 certificate, DBS check and DVLA mandate 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 motoring penalties or convictions.

Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied the driver is a fit and proper person to hold hackney carriage and private hire licences and therefore revoke them, with immediate effect. We also note the failure to notify the change of residential address.

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.

LIC93

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

The driver in relation to Item 7 was not present and had given no notice that she intended to attend.

The Enforcement Officer gave a summary of the report.

The Council required all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. The driver's enhanced DBS check, group 2 medical and DVLA mandate had expired and the driver had not responded to attempts by the Council to contact her.

'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/HC1242 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any

other reasonable cause. She has been licenced in Uttlesford since 3rd July 2015 and her current licence is due to expire on 30th June 2019.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check, a group 2 medical examination, and to provide a DVLA mandate to allow annual scrutiny of driving records 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 has not supplied any of these documents, and her DBS check and Group 2 certificate both expired on 30th June 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 15th day of the month preceding the expiry of that check.

The driver was formally contacted in writing by the Enforcement Officer on 9th January 2019 and was told that if she wanted to remain licensed then she must provide these documents by 25th January 2019. 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.

LIC94

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

The driver in relation to Item 8 was not present and had given no notice that he intended to attend.

The Enforcement Officer gave a summary of the report.

The Council required all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. The driver's enhanced DBS check, group 2

medical and DVLA mandate had expired and the driver had not responded to attempts by the Council to contact him.

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/HC1257 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 13th July 2015 and his current licence is due to expire on 30th June 2015. His last known driving role was with 24 x 7Ltd carrying out school contract work, but they have confirmed he no longer works for them.

The Council requires all drivers to undergo a group 2 medical examination, enhanced DBS check, and to provide a DVLA mandate to allow annual scrutiny of driving records 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 has not supplied any of these documents and his last medical certificate and DBS check expired on 30th June 2018, as did his DVLA mandate.

Normal practice at UDC is to send out reminder letters for medical certificates on the 15th day of the month preceding the expiry of that check. DBS check reminders are sent out on the first working day of the month of expiry.

The driver was formally contacted in writing by the Enforcement Officer on 14th January 2019 and was then told that if he wanted to remain licensed then he must provide all three documents by 30th January 2019. 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 certificate, DBS check and DVLA mandate 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 motoring penalties or convictions.

Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied 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.

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

The driver in relation to Item 9 was not present and had given no notice that he intended to attend.

The Enforcement Officer gave a summary of the report.

The Council required all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. The driver's enhanced DBS check, group 2 medical and DVLA mandate had expired and the driver had not responded to attempts by the Council to contact him.

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/HC0926 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. He has been licenced in Uttlesford since 18th June 2015 and his last known driving role was with 24 x 7 Ltd. We note in passing that he was sanctioned in 2016 for breach of the Council's notification requirements.

The Council requires all drivers to undergo a group 2 medical examination, enhanced DBS check, and to provide a DVLA mandate to allow annual scrutiny of driving records 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 has not supplied any of these documents and his last medical certificate and DBS check expired on 31st May 2018.

Normal practice at UDC is to send out reminder letters for medical certificates on the 15th day of the month preceding the expiry of that check. DBS check reminders are sent out on the first working day of the month of expiry.

The driver was formally contacted in writing by the Enforcement Officer on 28th December 2018 was then told that if he wanted to remain licensed then he must provide all three documents by 16th January 2019. 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 certificate, DBS check and DVLA mandate 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 motoring penalties or convictions.

Lacking that information, and mindful of the paramount importance of public safety, we are not satisfied 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.

LIC96 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chairman took Item 4 on the agenda last.

The Chairman read the procedure for determining licenses to the applicant.

The Enforcement Officer gave a summary of the report.

On 05 December 2018, the Enforcement Officer received a telephone call from Chelmsford City Council to report that there had been an altercation between the driver and another Chelmsford licensed driver in Chelmsford on 01 December 2018. This resulted in Essex Police attending.

Summaries of the conclusion reached by the Police, and the driver's version of events, were set out in the report. Essex Police's Data Protection Team had also confirmed that the driver had been issued a caution for criminal damage.

The driver no longer met the Council's licensing standards for drivers, as standard 9 reads: 'No official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months.'

The driver gave his account of events. He had been waiting to collect a passenger at a pre-arranged meeting point. This was not a marked-taxi rank, and he was parked a clear distance away from a queue of other taxis. One taxi driver pulled up behind him, banged on the window and accused him of plying for trade. The driver explained that he was pre-booked, but the other driver proceeded to take photos of the vehicle and then the driver himself. At this point, the driver left his vehicle and pushed the phone away, resulting in it falling onto the floor and being damaged. The other driver then claimed he had been assaulted and left.

The driver said it was a bad decision of his to get out of the car and push the phone away, but the other driver's behaviour had put him on edge. This sort of behaviour was not in his character.

At 11.35, the Committee retired to make its decision.

At 12.00, 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/HC0405 in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The licence is due to expire on 31st May 2019. The driver has been licensed by the Council since June 2011 and we note he is the proprietor of a licensed vehicle.

On 5th December 2018, the Council's Enforcement Officer received a telephone call from Chelmsford City Council advising of an altercation between the driver and another driver on 1st December which had led to the Police being called. Email contact was made with the investigating officer, PC Akifjevs, who described a confused incident (described in the papers before us). As a result, it was decided that there was insufficient evidence to found a prosecution, but that what is more likely than not happened in the opinion of PC Akifjevs was that on Saturday 1st December 2018 at about 2145 hours the driver parked in the informal taxi rank in Baddow Road, Chelmsford (it is not a formally designated rank) and was sitting in the car waiting for his customer, when he was approached by a local taxi driver, who asked him to leave the taxi rank because he wasn't allowed to be there, which request the driver refused and stayed in the car.

The other driver took a picture of the driver's car for the purpose of reporting him to the Licensing Authority and was taking a picture of him sitting in the car, when the driver jumped out and tried to prevent him from filming/recording, as a result of which the mobile phone was damaged. Both parties were generally abusive to each other and when police arrived, the driver stated he was still waiting for his customer; he picked her up at about 2220 hours, then left the taxi rank. The Council were subsequently advised that the driver had accepted a caution for criminal damage.

The driver was interviewed over the telephone by the Enforcement Officer on 12th February 2019. He stated that He arrived at approximately 9.50pm on Baddow Road in Chelmsford. He stated that he pulled up to the rear of the location at which Chelmsford taxis rank up. He did this as he was due to pick up a single female passenger.

He stated his taxi top light was not on and he was not plying for hire. He explained that Chelmsford taxis were coming back and forth to rank up. A Chelmsford taxi driver came up to him after parking behind his vehicle. That driver then approached his vehicle and banged on the window and said that he could not be there as it is for Chelmsford taxi drivers. The driver told him he was there for a pick up and that he is in a hackney carriage vehicle. The other driver said he would report him and the driver claimed he said 'fine.'

The other driver went to his taxi and got his mobile phone and started taking pictures of his taxi and then went to the offside to take pictures of the driver. The

driver then exited the vehicle and said get the phone out of my face and he pushed the hand with the phone in. This knocked the phone to the floor and damaged it.

The other driver then said that the driver had assaulted him. That driver then went and moved his vehicle and told other drivers on the rank what had happened and a few minutes later four Police Officers arrived.

He confirmed that the Police took a statement and he then left at about 10.20 hours. He subsequently accepted a caution conditional upon him agreeing to pay compensation to the other driver in respect of the damage to the mobile phone.

However, this means he no longer meets standard 9 of the Council's current Licensing Standards for Drivers, which states:- "No official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months".

We have read the papers before us and we have heard from the driver. We have also perused the three character references he has submitted to us today. We note that he has no criminal record and that he has expressed contrition for what happened: we note specifically that he volunteered to reimburse the cost of the mobile phone repair and that the Police agreed to resolve the matter upon this basis. We have heard that the caution was only administered in order that the Police were able to process the compensation payment: it becomes spent at the end of this month.

We note that there in fact two breaches of the Council's Licensing Standards – the caution itself and the failure to notify us under Condition 18(d). We also note that the driver is dual licensed holding an Epping Forest District Council licence as well, and that he has similarly not notified them. This is not acceptable.

However, we also observe that he is dyslexic and we further note his contrition. We are therefore upon this occasion prepared to give him the benefit of the doubt. We do not, though, expect to see him before us ever again.

The meeting closed at 12.10.