

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON  
WALDEN, ESSEX CB11 4ER, on FRIDAY, 28 JUNE 2019 at 10.00 am**

Present: Councillor P Lavelle (Chair)  
Councillors S Barker, C Day and V Isham

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain (Enforcement Officer), T Cobden (Environmental Health Manager - Commercial), J Jones (Licensing Officer), E Smith (Solicitor) and M Watts (Environmental Health Manager - Protection)

Also present: The drivers in relation to the items, Mr McCaffrey (Solicitor for the driver in relation to items 4 and 5, the manager of the driver in relation to items 6 and 7, B Drinkwater and D Perry (Uttlesford Licensed Operators and Drivers Association)

**LEH1 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

**LEH2 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Licensing Officer gave a summary of the report.

The driver had first been granted a 3 year private hire/hackney carriage driver's licence by this authority on 16 June 2016. His licence came up for renewal on 31 May 2019. He submitted a new medical and DBS certificate as required, however although the new certificate showed no new convictions since the previous one issued in 2015, following the introduction of a new 'policy on deciding the suitability of applicants and licensees in the hackney and private hire trades', which came into effect on 1 May 2019, the driver no longer met the licensing standards for new drivers. This was because of conviction 6 for driving a motor vehicle with excess alcohol on 19 September 2011 for which he was given a 12 month ban. It was open to Members to depart from their policy if it was reasonable in all the circumstances to do so.

The driver said he had driven for his firm for over 3 years and had a letter of support from his boss. He had played a role in establishing better behaviour of a child with extremely challenging needs and behaviour who he drove to school. The sooner he could get back to driving her, the better it would be for her.

At 10.15, the Committee retired to make its decision.

At 10.20, the Committee returned.

The decision was read to the driver.

## DECISION NOTICE

The application before the Panel today is for the renewal of the driver's joint private hire/hackney carriage licence number PH/HC1648 under the Local Government (Miscellaneous Provisions) Act 1976. The licence expired on 31<sup>st</sup> May 2019 and the driver was first licenced by this authority on 16<sup>th</sup> June 2016. He is employed by 24 x 7 (Hants) Ltd on school contract work – so far as we know his licence was granted in order that he might take up this role and we have in the papers before us a letter from them supporting this application.

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, including a DBS check dated 10<sup>th</sup> May 2019 and showing an old conviction for driving with excess alcohol dated 19<sup>th</sup> September 2011 for which he received a 12 month disqualification from driving.

Though the driver has been licensed by UDC for three years, this was under the under the Council's old policy, a copy of which we have seen. Under this, a person who had been disqualified from driving for any reason would not be granted a licence until 3 years after the expiry of the disqualification, and the driver met this requirement in June 2016. However, the Council's new policy states at point 2.26 that "where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed." Therefore the driver would not be eligible to apply for a licence until September this year.

We note we have discretion to diverge from policy in an appropriate case, and we also observe that the driver has driven for the company 24 x 7 (Hants) Ltd throughout. They have submitted a statement in support of his application to renew his licence in which they explain that he drives children with special needs to and from school and in particular there is one child who has exhibited extremely challenging behaviour and needs. It is understood that having the continuity of one driver has contributed substantially to that child's well-being.

We have read the papers before us and we have heard from the driver. This seems to us to be a case where it is wholly proper for us to grant this application and we therefore do so. The driver will receive the paperwork from the Licensing Dept in due course, and we wish him all the best for the future.

## LEH3 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Chair brought items 6 and 7 forward in proceedings. These items were dealt with in tandem.

The Enforcement Officer gave a summary of the report.

On 13 May 2019, the driver emailed the licensing department to notify them that he had moved address. He also notified them that he had made a mistake with temporary cover which resulted in him receiving six penalty points on his licence when he bought the policy he put the wrong date on the temporary cover. He was stopped by the Police who seized the vehicle, and the driver had to pay a fixed penalty notice of £300 and received six penalty points on his licence. Officer asked the driver if he had notified his insurance company and the driver said that he had not but would tell them upon renewal of his current policy.

Uttlesford District Council's suitability policy includes criteria that applicants should meet if they wish to be licensed by Uttlesford District Council, including not having committed an offence of driving without insurance.

The driver's employer said the driver had accidentally clicked on the wrong date on an app when filling in the application for temporary cover. He would never knowingly drive a vehicle without insurance. He was an excellent driver who had received many compliments.

In response to a Member question, the driver said he had not informed the Council of receiving the penalty points within 7 working days because he had been moving and it had been a stressful time. He had informed his insurer of receiving the penalty points after the Enforcement Officer had prompted him to do so.

At 10.45, the Committee retired to make its decision.

At 11.25, 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/HC0706 under S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The licence is due to expire on 28<sup>th</sup> February 2022 and the driver was first licenced by this authority on 5<sup>th</sup> March 2015. He also holds a private hire vehicle lise reference no PHV 1595 (See post) and drives for STS Taxis Ltd a private hire operator. His line manager accompanied him to the hearing this morning and spoke in support of him.

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, including a DVLA DriverCheck dated 13<sup>th</sup> May 2019, the Council's Licensing Standards, some email correspondence, and the notes of a telephone discussion the driver had with the Enforcement Officer on 31<sup>st</sup> May 2019.

On 13<sup>th</sup> May 2019 the Licensing Department received an email from the driver advising them of a) a change of residential address, and that b) due to an administrative error on his part he had received six penalty points on his DVLA licence. A routine DVLA DriverCheck carried out on that day showed that he committed an IN10 offence of driving whilst uninsured on 5<sup>th</sup> February 2018 for which he received the six penalty points. He therefore no longer meets the Council's Licensing Standards for drivers.

Uttlesford District Council's suitability policy outlines the criteria that applicants should meet if they wished to be licensed by Uttlesford District Council. Our attention has been drawn to the 'other motoring offences' section 2.29 which reads 'a major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.' Therefore the driver will not meet the Council's licensing standards until 6<sup>th</sup> February 2026.

The driver was spoken to by the Enforcement Officer on 31<sup>st</sup> May 2019 regarding the DVLA check and the consequences of the information contained therein, namely that he no longer met the licensing standards for drivers.

The driver explained to the Officer that he had moved house earlier in the year and he had had to move his personal car from the driveway of his old home to his new address. As a result he obtained temporary cover on the insurance as the vehicle had no insurance, tax or MOT and he was therefore taking it to the garage for the MOT.

The cover was a one day policy from Aviva insurance.

However, he explained to the Enforcement Officer that when he bought the policy had done so via an app on a mobile device and had accidentally put the wrong date upon which he required the temporary cover note to be in force for. Unfortunately, he was stopped by the Police who seized the vehicle as uninsured, and the driver had to pay a fixed penalty notice of £300 and received six penalty points on his licence. He later reclaimed the vehicle from the Police. The Enforcement Officer asked the driver if he had notified his insurance company of these matters, and the driver said that he had not but would tell them upon renewal of his current policy.

We have read the papers before us and we have heard from the driver and his manager. The latter explained to us that the driver had purchased a one day DayInsure insurance policy in order to move his private car between addresses via an MOT testing station but in completing the application on a mobile app had inadvertently clicked upon the wrong date which meant the cover was also incorrectly issued. The Police apparently missed this error on being shown the screen and so did not appreciate that an offence had in fact been committed until they checked the position with the insurance company. We were told that at all material times the PHV was insured.

However, our attention has been drawn to Clause 2.41 of the Council's policy which cross references Clause 2.29 set out above and adds that as a matter of trust and confidence revocation should generally follow any of the matters set out therein. WE further understand that the insurers of the Zafira were not informed of the matter until the Enforcement Officer prompted the driver when the vehicle licence renewal was submitted in mid June. This compounds the offence.

The primary function of this Committee is the protection of the public and we note the seriousness of the offence. Drivers are required to have insurance for good reason and though there are provisions in place to ensure that victims of uninsured drivers are compensated, it does mean there are additional procedural steps that such people have to take if there is an accident, and the compensation scheme relates to personal injury only. Mercifully there was no accident, but the failure to notify the PHV insurer until prompted .compounds the error and we therefore feel that it is this that has tipped the balance in favour of revocation under S61 (1) (b) of the 1976 Act of the driver's drivers' licence – any other reasonable cause.

There is a right of appeal against this decision which must be exercised within a period of 21 days. During that period the licence remains in force and thereafter until the conclusion of the appellate process. The driver will receive a letter from the Legal Department explaining this.

In the light of this decision the question of the driver's Vauxhall Zafira motor vehicle reg HY09 ORA has to be considered. The driver produced all his relevant paperwork (insurance, MOT, compliance test) and paid his renewal fee for an annual licence to the Council on 11 June 2019. The Enforcement Officer contacted the driver when the paperwork was received and asked to see the schedule of cover for the motor insurance. The driver contacted the insurance company and notified them of the fixed penalty notice for the insurance offence. Otherwise, he would have left notification to the policy renewal date, if at all, rendering it voidable.

As a matter of law, only a licensed driver may drive a licensed vehicle. In the light of the decision we have made regarding the driver's driver's licence then unless and until he appeals this decision he will be unable to drive the vehicle for social, domestic and pleasure purposes, as it remains a licensed vehicle. We appreciate that the existing licence expires on Sunday and that a new licence, if granted, would be without prejudice to the result of any appellate process initiated by the driver so we therefore revoke the existing vehicle licence and leave the question of his application for a new one to be dealt with upon its merits.

LEH4

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

Items 4 and 5 were dealt with in tandem.

The Enforcement Officer gave a summary of the reports.

On 20 April 2019, the Council received an email from Essex Police reporting that the Police had received a report from a female who alleged that she had been in a taxi where the driver had offered her money for sexual favours. The alleged victim did not provide a witness statement to the Police as she was unwilling to go through the procedure and to go to Court. She had consumed alcohol on the evening but did not appear to be heavily intoxicated and was able to communicate with the Officers when they saw her. The morning after the journey the female passenger did post a message on a local crime page on Facebook warning other customers about travelling with the driver.

The complainant attended the Council Offices on 29 April 2019 and met the Enforcement Officer who assisted her in supplying a witness statement. She confirmed that she got in the front of the vehicle and recognised the driver who she knew to be a taxi driver around Saffron Walden. She told him where she wanted to be dropped off and he proceeded to drive. The driver then offered her money in return for sexual favours.

The complainant then said the driver drove very slowly along her road almost on purpose. She asked how much the fare was as she could not see a meter and he told her it was £5. She stated that she did not have quite enough and paid him just over £4 and she would give him the rest when she sees him on the taxi rank, which he apparently agreed to. The driver was still allegedly very persistent and the complainant said she would think about it so that she could get out of the vehicle. She then claimed that she went to exit the vehicle but it was locked and he then grabbed her tight arm and said he would wait. The driver then allegedly asked if she had his number and she said no and he gave her his business card with his phone number on.

When she got in her house she spoke to members of her family and decided to call the Police who attended soon after. She confirmed that she photographed the business card and emailed it to the Police.

The driver attended a meeting with the Enforcement Officer and the Environmental Health Manager Protection on 30 April 2019, to discuss the allegations. The driver confirmed that he did pick up the passenger from outside the Old English Gentleman pub and transported the passenger home about five minutes later. The driver said that the fare was £5 and whilst in the car the passenger realised that she had no money in her purse. The driver said that she tried to leave without paying. When she attempted to leave the driver claimed that he told her to pay and she became very angry and rude and closed the door harshly before leaving. He said that he did not report the matter to the Police until after the weekend because he had another journey to do.

He did however attend the Council Offices on Tuesday 23 April in the morning to speak to Council Officers about this. As he was unable to see an Officer he spoke to the Police reception desk about this and troubles for taxi drivers. He did not report the matter as a crime. The Enforcement Officer did speak to the Police and they confirmed that the driver did attend and complain but did not report the matter as a crime.

The driver claimed that he did recognise the passenger but not well enough to know personally and did not recollect if she had previously been a passenger. He remembered the passenger's boyfriend calling him up about 30 minutes after he dropped her off but believed he was drunk and he did not understand him. He said that the passenger sat in the front seat. From his memory the conversation was normal. He denied poking the female, discussing his sexual behaviour/relationship with his wife and the proposition of £50 for oral sex.

The driver was asked if he used the taxi meter for the journey and he confirmed that he did not. The driver claimed to know what the fare would be and that it is usually £5 but more often than not it is £5. The driver confirmed that he did not advise the passenger of the fare, but believed that the passenger would have been aware as this is typical for this journey. He claimed that he did not receive part payment as the complainant alleges. He did not have a receipt for the journey but made a recording in his work diary. When questioned, the driver confirmed that with telephone bookings they are usually a fixed price and only at other times does he use the meter if he is not sure on the fare.

The driver claimed that other taxi drivers dislike him and have previously made complaints about him. He believed that this complaint would have come from them as they are trying to get rid of him.

All Uttlesford District Council licensed hackney carriage vehicles are fitted with meters and should have a table of fares showing the maximum amount they can charge at certain times. It is an offence under section 67(1) Local Government (Miscellaneous Provisions) Act 1976 to use hackney carriage vehicles for private hire work and charge more than the legal fare. The driver has made a clear admission that he regularly does this.

The Council had previously received a number of complaints about the driver.

□ February 2013 – The driver left his taxi unattended at the taxi rank in Saffron Walden to go shopping. Members should be aware that hackney carriage vehicles can only park/wait on a rank if they are plying for hire. Another vehicle hit the vehicle but the driver did not report this to the Council which is a breach of his conditions.

□ March 2014 – Allegation that he was driving with no plate or top light. Members should be advised that under the conditions of their licence hackney carriage vehicle proprietors could at this time remove their top light when they were not working. The case was dealt with accordingly. The driver was issued a Council caution for the offence of failing to display a hackney carriage roof light when driving a hackney carriage vehicle under section 45 Town Police Clauses Act 1847.

□ July 2014 – Allegation that the driver overcharged on a journey charging £4 compared to £3.20. The complainant did not pay the full fare but a warning letter was sent to the driver.

□ May 2015 – Allegation the driver was driving with his licence plate in his rear window. The vehicle was inspected on 01 June 2016 by an Enforcement Officer and the plate was in the rear window. The former Assistant Chief Executive Legal suspended the driver's vehicle licence. The driver's private hire/hackney carriage driver's licence was suspended from 03-07 July 2015 inclusive for this breach of conditions.

- May 2015 – Allegation received from a third party that the driver was overcharging a customer. No statement received from passenger so no further action was taken.
- October 2015 – Allegation that the driver parked his hackney carriage vehicle in the taxi rank in Saffron Walden whilst he was not plying for hire. The driver was warned about his future conduct.
- June 2016 – Allegation that the driver refused to transfer a partially sighted passenger and that he was smoking in his taxi. No further action was taken as there were concerns that if action was taken against the driver it might not be easy to defend as the complainant was partially sighted.
- September 2016 – Allegation that the driver transferred another vulnerable customer and without using the meter said the fare was £5.50. The passenger paid £10.50 to get a £5 note change. The passenger showed the driver a new £5 note when he was taking the £5 change and the driver snatched this and said it was his change. The driver refused to give the £5 note back and told the passenger to leave the vehicle before accusing the passenger of being drunk and swearing at them. The driver pretended to call the Police but was seen to hang up. The complainant called the Police as they were scared but they were not able to attend and told him to report it to the Council. The driver allegedly took the phone and said to the Police that the passenger was drunk. The driver then proceeded to smoke a cigarette in the vehicle and did not return the £5 note. No further action was taken in this matter.

Some, but not all of these allegations had been made the same party.

If members were to decide to revoke the driver's private hire/hackney carriage driver's licence then he would be unable to drive the vehicle for social, domestic and pleasure purposes as it remained a licensed vehicle and only licensed drivers can drive licensed vehicles. It would therefore be logical to take action against the driver's hackney carriage licence, as there would be doubts about him as a proprietor.

In response to a Member question, the driver said he did not report the complainant refusing to pay as a fine because it was not really anything. He did not want to waste his time.

In response to a Member question, the driver said he did not know why people did not like him. He was very friendly.

In response to a Member question, the driver said he had been showing a meter.

In response to a Member question, the driver said he sometimes left the car at a taxi rank but was always available should a customer approach the rank.

In response to a Member question, the driver said there was only childlock in the vehicle. It could not be locked from the inside.

In response to a Member question, the driver said his business card was on the dashboard for any customer to pick up.

The Solicitor for the driver said he could not answer any question asking him to account for the actions of others.

The Council's Solicitor advised Members that anecdotal evidence could be taken into account, and that the complainant's report to the Police did carry some weight.

The Solicitor for the driver said that people do make untrue allegations for people but understanding why this happens was very difficult. The verified facts of the case included that this complaint had been made by someone who was known to people who had complained about the driver before, and this happened to be the first time a complaint of sexual harassment against the driver had been filed. However the driver had raised his complaint about the complainant before he knew a complaint had been raised against him. The driver had been up front about his lack of use of the meter and acknowledged this was wrong. It was important to consider the log the driver had handed over showing that he had recorded a fair had not been paid. Parking in taxi ranks and issues regarding meter readings were trivial matters compared to the allegations of sexual harassment.

The Committee retired at 12.45 to make its decision.

At 1.30, the Committee returned.

The decision was read to those present.

## DECISION NOTICE

The application before the Panel today is for the revocation of the driver's joint private hire/hackney carriage licence number PH/HC0020 under S61 (1) ( b) Local Government (Miscellaneous Provisions ) Act 1976 – any other reasonable cause. The driver has been licensed by the Council since 5<sup>th</sup> November 2005 and his current licence is due to expire on 31<sup>st</sup> October 2021. He is a self employed driver trading under the name of "Dial a Cab" and is also the proprietor of licensed vehicle no 121, a grey Ford Galaxy registration EJ09 UBU. The licence of this vehicle also falls for consideration by us today.

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. These include correspondence from the Police, booking records, and a signed witness statement made under S9 Criminal Justice Act 1967. We have also seen the notes of a meeting between the driver, the Enforcement Officer and Mr Watts, the Environmental Health Manager – Protection on 30<sup>th</sup> April 2019.

We have also heard from the Enforcement Officer.

On 20 April 2019, the Council received an email from PC Whitehead of Essex Police who advised that at approximately 23:55 hours on 18 April 2019 the Police had received a complaint from a female who alleged that she had been travelling in a taxi when the driver had offered her money in exchange for sexual favours. She had allegedly been offered £50 for a blowjob (oral sex) and that

the driver had stated that he was feeling “very sexual and horny” and that his wife will “not please him”. That email is among our papers. PC Whitehead also reported that the driver allegedly then poked the female in the top of the belly and side of her breast and made a comment to the effect of “are you pregnant.”

The Police crime reference number is 42/61059/19.

PC Whitehead Further reported that the female was obviously upset about this interaction and stated it was a “Dial-a-Cab” taxi. PC Whitehead also sent a photo of the business card that the driver allegedly gave to her.

The Council’s Enforcement Officer made further enquiries with PC Whitehead on 24 April 2019. He confirmed that he was still the Officer In Charge of the case, but that the alleged victim did not provide a witness statement as she was unwilling to go through the procedure and to go to Court.

However, PC Whitehead did want the incident formally referred to UDC in order to safeguard others. He confirmed that the alleged victim had consumed alcohol on the evening concerned but that she did not appear to be heavily intoxicated and was able to communicate with the Officers when they saw her. Her contact details were passed to the Council, and PC Whitehead confirmed that the incident allegedly took place in the vehicle and there was no known CCTV. PC Whitehead confirmed that the Police investigation was likely to be filed as they did not have a statement and did not have enough evidence to found a prosecution. We are mindful that the standard of proof the Police would have to meet is that a Court would have to be satisfied beyond reasonable doubt that an offence had been committed: we only have to be satisfied that it is more likely than not that the incident in question took place. We understand that on the morning after the journey the female passenger did post a message on a local crime page on Facebook warning other customers about travelling with the driver.

The female complainant attended the Council Offices on 29 April 2019 and met the Enforcement Officer who assisted her in supplying a witness statement. This is before us and we note it is signed by her and contains a statement of truth. She confirmed the following:

On the evening in question she had been for a meal and drinks with members of her family from approximately 18.45 hours. She confirmed that she had about three large glasses of wine.

Just before 23.00 hours she went to a nearby shop and purchased another bottle of wine and smoking materials to take home.

She then started walking home but saw a taxi outside the “Old English Gentleman” pub and decided to hire it. She then entered the vehicle after the driver confirmed he was free.

She confirmed that she got in the passenger seat and recognised the driver as being a person called ‘Ali’ whom she knew to be a taxi driver around Saffron Walden.

She told him where she wanted to be dropped off and he proceeded to drive. She explained that there was general conversation at first.

She then claimed that the driver asked her if she was still pregnant which she found odd and then she alleged that he started to poke her in the stomach near her breast on her right hand side. At this point she felt uncomfortable, and the driver allegedly said that his wife did not give him 'blowjobs' as she did not like it. The driver also allegedly said that his wife did not take the contraceptive pill because she did not want the medication and as a result he has to wear condoms during sex and he did not like the sensation.

The driver allegedly told the complainant that he needed to be fulfilled and he asked her for oral sex and he enquired if she liked to give it. The complainant refused but The driver was allegedly persistent and said he would pay her £50 and that he would go and take a pill, which she assumed to be Viagra, and then return in half an hour. She then stated that she told him she would not do this and she has a partner.

The complainant then said the driver drove very slowly along her road almost on purpose. She then asked how much was the fare as she could not see a meter and he told her it was £5. She stated that she did not have quite enough and paid him just over £4 and she would give him the rest when she sees him on the taxi rank, which he apparently agreed to.

The driver was still allegedly very persistent and the complainant said she would think about it so that she could get out of the vehicle. She then claimed that she went to exit the vehicle but it was locked and he then grabbed her right arm and said he would wait for the payment the driver then allegedly asked if she had his number and she said no and he gave her his business card with his phone number on.

When she got in her house she spoke to members of her family and decided to call the Police who attended soon after. She confirmed that she photographed the business card and emailed it to PC Whitehead.

The driver attended a meeting with the Enforcement Officer and the Environmental Health Manager - Protection on 30 April 2019, to discuss the allegations. Their respective notes of the meeting are before us.

The driver confirmed the following information:

He admitted that he did pick up the passenger from outside the "Old English Gentleman" pub and transported the passenger home about five minutes later. The driver said that the fare was £5 and whilst in the car the passenger realised that she had no money in her purse. The driver said that she tried to leave without paying. When she attempted to leave the driver claimed that he told her to pay and she became very angry and rude and closed the door harshly before leaving. The driver said that he did not report the matter to the Police until after the weekend and because he had another fare to do.

The driver attended the Council Offices on Tuesday 23 April in the morning to speak to Council Officers about this. As he was unable to see an Officer he spoke to the Police reception desk about this. He did not report the matter as a

crime. The Enforcement Officer obtained confirmation that the driver did attend the Police office and complain but did not report the matter as a crime.

The driver claimed that he did recognise the passenger but did not actually know her, and nor did he recollect if she had previously been a passenger.

The driver remembered the passenger's boyfriend calling him up about 30 minutes after he dropped her off but the driver believed he was drunk and he did not understand him. The driver was then asked about his recollection of the journey: He remembered that the passenger sat in the front seat. From his memory the conversation was normal, and he also denied poking her.

The driver denied discussing his sexual behaviour/relationship with his wife. He said that he had lived in the area for 27 years, is well known and was very surprised by the allegations; he therefore denied the proposition/offer of £50 for oral sex.

The driver was asked if he used the taxi meter for the journey and he confirmed that he did not. The driver claimed to know what the fare would be and that it is usually £5 but more often than not it is £5. He confirmed that he did not advise the passenger of the fare, but believed that she would have been aware as it is standard for this journey.

The driver claimed that he did not receive part payment as the complainant alleges, that he continued to work that night, and that he did not issue a receipt for the journey but made a recording in his work diary.

The driver did admit being angry as he claimed the lady did not pay the fare. When questioned, the driver confirmed telephone bookings are usually at a fixed price and he only uses the meter if he is not sure of the fare.

Finally, the driver claimed that other taxi drivers dislike him and have previously made complaints about him. He believed that this complaint would have come from them as they are trying to get rid of him.

It is a legal requirement for licensed hackney carriage vehicles to be fitted with meters and to prominently display a table of fares showing the maximum amount they can charge at certain times. It is an offence, admitted by the driver, under section 67(1) Local Government (Miscellaneous Provisions) Act 1976 to use hackney carriage vehicles for private hire work, and charge more than the legal fare.

The matter was reviewed by the Environmental Health Manager - Protection and the previous Chairman of this Committee on the basis of the information then available, and we understand they had the benefit of legal advice. In the light of the case of *R (oao) Singh v Cardiff City Council [2012] EWHC 1852* which precludes the use of suspension in the employment sense pending investigation it was decided to place the matter before the Committee at the earliest opportunity rather than risk a revocation on insufficient evidence.

We understand that the driver's history with this authority has not been trouble free. His disciplinary history is set out in the papers before us, and we note a number of matters, including misuse of a taxi rank and failure to report an accident (February 2013), failure to display a hackney carriage light for which offence under S45 Town Police Clauses Act 1847 he received a Council caution in March 2014, incidents of overcharging in July 2014 and November 2015 for the first of which he received a formal warning, a failure to properly display the taxi plate which attracted a three day suspension in July 2015, misuse of the Saffron Walden taxi rank on October 2015, and most troubling of all, two incidents in June and September 2016 involving vulnerable members of the public involving, inter alia, bullying, overcharging and smoking in the vehicle contrary to the Health Act 2006. No action was taken on these matters because of the vulnerability of the passengers concerned, but since this Committee is not a Court of law and its primary function is to protect the public, we can and do take these matters into account.

Following a request from the driver for disclosure of the papers relating to these matters, he was supplied with redacted copies of those documents remaining in the Council's possession. Copies of that material are also before us.

We have heard from Mr McCaffrey of Counsel on behalf of the driver, who was also supported by a family member who assisted in translating the proceedings to him. We have listed to the driver's answers to our questions and Mr McCaffrey has made eloquent submissions on his behalf. We also note that the complainant has not felt able to attend before us today.

However, we note that this lady immediately reported the incident to the Police and that the account she gave to PC Whitehead as set out in his emails to UDC officers is consistent with the statement made by her to the Enforcement Officer pursuant to the provisions of S9 CJA 1967 some ten days later. By contrast, what the driver has said to us today is not consistent with the account given by him when interviewed by UDC officers on 30<sup>th</sup> April. IN the course of that interview he admitted that he had not used the meter, which is an offence, as is failure to display a proper table of fares.

The journey log/work diary submitted by the driver does not provide enough information to have been of much assistance to us by way of corroboration – it does not mention locations, for example, and we are informed that the Council holds records of a number of similar failures taking place over a number of years, and we are mindful that failure to use the meter when applicable is a criminal offence. Knowing the amount of the fare, or the average fare, is not an acceptable substitute for use of the meter. The driver admitted this failure in interview with officers: today, he seeks to resile from that admission. By contrast, the complainant's S9 statement, which we have read carefully, is consistent with what she told PC Whitehead, and it contains a statement of truth which gives it additional weight.

We have been told that there is a connection between this lady and another local PHV operator and we take this into account. We also note that today the driver has told us that "nobody dislikes me" which again, is inconsistent with the statement he made to UDC officers. This is another contradiction.

We must therefore repeat, the complainant has been consistent since April 2019 in her account of events, including in her social medial postings, copies of which are before us: the driver has not. She acted promptly contacting the Police immediately and agreeing they could share information with UDC: he did not. Nor did he report the issues surrounding the fare as a crime. We have been told it is not for us to speculate upon the motivation of the people involved in this matter: we do not do so, and we concentrate upon the facts before us and the consistency of the parties in their accounts of the events of 18<sup>th</sup> April and we find the complainant to be consistent and the driver not. Since our function is first and foremost the protection of the travelling public we can take into account the driver's past history and that history includes meter offences and inappropriate behaviour directed to vulnerable people.

It is worth repeating once more that the primary function of this Committee is the protection of the public and we note the seriousness of the offence complained of. Though the complainant may not normally be a vulnerable person, out alone late at night she was in a vulnerable situation and we are mindful that next time the passenger may not be as resolute as this lady. We also take into account that there have been previous incidents regarding vulnerable members of the public and one of those incidents does involve failure to use the meter and issues surrounding the fare, criminal offences in themselves, and on this occasion admitted by the driver.

The question we have to answer is, does the driver remain a fit and proper, ie a safe and suitable person, to remain an Uttlesford licensed driver? We have listened most carefully to everything that has been said to us today, we have read the papers before us, and we have discussed and debated the matter most anxiously among ourselves for some time. However, our primary function is the protection of the public, and taking everything into consideration, we consider public safety requires us to revoke the driver's licence under S61 (1) (b) of the 1976 Act – any other reasonable cause - as we do not consider he is a fit and proper person to continue to hold it. We do this with immediate effect given the potential risk to vulnerable members of the public.

There is a right of appeal against this decision which must be exercised within a period of 21 days. Since the revocation is upon grounds of public safety the licence is not kept in being by virtue of the appellate process. The driver will receive a letter from the Legal Department explaining this.

In the light of this decision we must now consider the vehicle licence. A licensed PHV may only be driven by a licensed driver and since the driver is no longer licensed he may not drive the vehicle for social, domestic and pleasure purposes. Accordingly we revoke the vehicle licence with immediate effect.