

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at ZOOM,  
on TUESDAY, 15 DECEMBER 2020 at 11.00 am**

Present: Councillor P Lavelle (Chair)  
Councillors C Day and P Lees

Officers in attendance: C Edwards (Democratic Services Officer), J Livermore (Senior Licensing and Compliance Officer), C Shanley-Grozavu (Democratic Services Officer), E Smith (Interim Legal Services Manager) and R Way (Licensing and Compliance Manager)

**LIC 17 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

**LIC18 REVIEW OF PRIVATE HIRE OPERATOR'S LICENCE**

The Senior Licensing and Compliance Officer summarised the report which asked for the Panel to review incidences related to Kinect Services Ltd. On the 2<sup>nd</sup> to 4<sup>th</sup> September and 7<sup>th</sup> September 2020, 8 vehicles being used on the Thriftwood School and College Contract were found to be unlicensed.

The applications for private hire licences had been made on the 27<sup>th</sup> August 2020 but had not been validated or issued by the Licensing Department. The vehicles were therefore not licensed on the stated dates which was an offence under section 46(1)(e) of the Local Government Miscellaneous Provisions Act 1976. This invalidated the insurance constituting a further offence under the Road Traffic Act. He stated that the Licensing Department had also received misleading information from Kinect Services Ltd referenced in Appendices A and C.

Kinect Services Ltd came before Members for them to determine whether they were a 'fit and proper' company to hold an Operator's Licence as they had not met the Council's licensing standards.

In response to a question from the Chair, the Senior Licensing and Compliance Officer verified that the 8 vehicles were subsequently licenced. He also confirmed that applications were submitted on the 27<sup>th</sup> August 2020.

Leading Counsel for Kinect Services spoke on the company's behalf. He stated that the Managing Director, Kinect Services Ltd took this process very seriously and wanted the Panel to be reassured that changes to procedures would be implemented to ensure that the company did not make this mistake again.

The Chair confirmed that some of the background documents sent could not be opened; these were to be sent again via e-mail by the end of the meeting.

A comprehensive background of the company was given. Kinect Services Ltd had 70 vehicles under contract with Local Authorities to provide transport for children with learning disabilities and the elderly.

The management structure was explained as this related to the area where mistakes had been identified. Two posts were highlighted in the structure under the Transport Manager: the Fleet Administrator who manages the fleet of vehicles and processes the licences and the Routing and Planning role in charge of the allocation of drivers. Communication between these posts had resulted in the 8 vehicles not being identified as unlicensed.

Essex County Council had awarded the contract for Transport Services to Kinect Services Ltd on 6 July 2020 to start on the 2 September 2020.

In order to provide the service, vehicles were hired and drivers recruited; staff from a previous company were also transferred by TUPE. All the applications for licences were made to the Licensing department at Uttlesford District Council and the majority were licensed and plates sent through.

The breakdown in communication occurred when all vehicles were not cross referenced and the final checks had not been carried out.

Unfortunately this was compounded by a telephone call from the Licensing Department to the Transport Manager, Kinect Services Ltd, who realised the mistake. In his panic he said that Essex County Council had given the go ahead on the basis that Kinect Services Ltd didn't charge for the service whilst the vehicles were unlicensed. He apologised sincerely and took full responsibility and he understood that this would result in disciplinary action.

A number of steps had been taken to address the identified problems:-

- Extra staff have been recruited:-
  - A Fleet Manager working alongside the Fleet Administrator
  - Two lead drivers
  - A Team Leader
  - A Training Manager to work across the company to improve services
  - A Care Consultant working 2 days a week to review systems
- Purchase of 3 new pieces of software
  - A Fleet Management system
  - A Vehicle Management system called Mission which both the driver and vehicle team, have access to.
  - Trackers on all vehicles including those that are hired, with a GPS system to pin point each vehicles location and an alert function when a vehicle has been licensed.

Testimonials had also been provided from other clients and sent through to the Senior Licensing and Compliance Officer.

The Panel thanked Counsel for Kinect Services for his thorough presentation.

In response to a question from Councillor Lees it was explained that the misleading information regarding Essex County Council not charging had been a mistake by the Transport Manager; he had spoken without thinking and this would form part of the disciplinary process.

The Owner of Kinect Services Ltd confirmed in response to a question that the Transport team had been briefed and both informal and formal meetings had taken place regarding the incidence. Training had also been given about licensing conditions.

He also confirmed that complaints had been received from parents and Essex County Council. He apologised on behalf of himself and the business. He said that he wanted to do things well and correctly and that this incident would not be repeated.

It was also confirmed that no accidents took place on any of the dates and the Insurance Company had been contacted and stated if any had taken place, third party insurance would have been covered.

The Chair explained that the Panel would retire to consider the case and would notify the Operator of their decision within 5 working days.

*The applicant left the meeting at 12:36pm and the Committee retired to make its decision.*

#### DECISION NOTICE

The matter before the Panel today is a review of the PHV Operator's licence granted to Kinect Services Ltd (KSL) by the Council on 5th August 2020. We are hearing this case remotely.

We consider this matter to be extremely serious since the coming into effect of the new HC/PHV Standards in July 2020 the transportation of children to and from school has become a fully regulated activity under the Safeguarding of Vulnerable Persons legislation and the detailed requirements of the "Every Child Matters" and "Working Together" guidance papers are now applicable. Uttlesford licences a considerable number of school contract operators and we therefore consider it to be of the utmost importance that we adhere to best practice in all respects.

We have had the opportunity of reading a detailed officer's report in this case, a copy of which has been served on KSL, and we have also seen, as have they, the background documents annexed thereto. These include a number of email chains passing between KSL, Essex County Council as the LEA, and the Licensing Department, a spreadsheet recording vehicle movements and a redacted witness statement from a driver in the employ of KSL who has contacted the Council.

We have also read a lengthy submission prepared by Tim Nesbitt QC on behalf of the operator and have considered a bundle of documents, including a number of testimonials provided by Southend on Sea BC, Rochford BC and LSL's insurance broker.

We have also taken into account the Council's policy, the DfT Standards and the DfE documents previously mentioned, and have heard from the Case Officer, from Mr Nesbitt on behalf of the operator, and from Mr Craig Bliss, who made a full and unreserved apology, and from Mr Stuart Smith, who similarly apologised for his failings. We understand he is to face workplace disciplinary proceedings.

On 7th September 2020 the Council was made aware of a number of vehicles that had been provided by KSL for the fulfilment of school contract work at the Thriftwood School & College, Chelmsford. The vehicles did not have the necessary Private Hire or Hackney Carriage vehicle licence in place.

Officers were aware of the current applications for licencing the vehicles in question and contacted KSL for clarification as to the situation. This email correspondence is before us and there was also a telephone conversation between KSL's Mr Smith and a member of the Licensing Team. In that conversation he suggested that were no charge to be imposed a licence was not required. He subsequently accepted that statement as being incorrect and he has admitted this to us today. We understand he faces disciplinary proceedings as a result.

There was further correspondence between KSL and Essex County Council whereby Mr Bliss, the director of KSL said the suggestion of providing the vehicles for no charge was "not a discussion he was aware of". He also accepted the failure, apologised profusely to us on behalf of himself and the company, and through his Counsel outlined in detail the training, supervisory and technical steps and mitigations put in place as a result of this error.

Also before us is email correspondence from Essex County Council outlining their understanding of the situation at the time. An excel spreadsheet was provided to them by KLS showing a list of drivers and vehicles allocated to school routes over the period of 2-4 and 7-8 September 2020. This spreadsheet is before us as is a simplified table illustrating the relevant information contained on the spreadsheet.

Additionally, officers were subsequently contacted by three licensed drivers employed by KLS, two of whom were allocated to the vehicles listed in our documents. One provided a witness statement and another wrote to us by email but did not give a formal statement. Those documents are also before us and information leading to their identification has been redacted. KSL have been advised through their legal advisers that the provision of this information amounts to a protected disclosure and we are satisfied that this will be explained to Mr Bliss.

We are mindful that operating a vehicle as a PH(V) when the vehicle is not licensed as a PH(V)"is an offence under Section 46(1)(e) of the Local Government (Miscellaneous Provisions) Act 1976. The information before us indicates that a total of eight vehicles were operated without the necessary private hire vehicle licences in place for most or all of the period of 2-4 and 7 September 2020 while transporting children to and from school. We repeat, this is a fully regulated activity.

While the Council had received applications for a private hire licence for the vehicles, those vehicles had not been granted a licence at the time of their use, not only contravening the Act but also invalidating the insurance cover thereon. This is an extremely serious matter, and we take into account the statement made by Mr Smith, albeit subsequently disavowed by Mr Bliss.

The primary function of this Committee is the protection of the public and if we are in any doubt as to whether an applicant is a safe and suitable person to continue to hold a licence then our duty is clear – we should revoke the licence. In this case the children concerned, and their families are among the most vulnerable members of society. This has had an impact upon the way in which this case is being dealt with – Essex County Council did not wish to run the risk of the parents being called to Court and we do understand this.

We have heard from officers and Mr Nesbitt spoke most eloquently on behalf of his client. Mr Bliss has apologised profusely to us, as has Mr Smith and we note the measures that have been put into place to ensure this does not happen again. As far as Mr Bliss and his company are concerned, we believe that the appearance before us today and the knowledge that an LEA is aware they have been found wanting is punishment enough. Mr Smith will, we understand, be dealt with by his employer.

In the circumstances, we do not propose to take any further action and trust that the steps taken to ensure there will not be a repeat incident are firmly embedded in the culture of the company. The matter is therefore closed but we do not expect to see KSL or Messrs Bliss and Smith before us ever again.

*The meeting ended at 1:06pm.*