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Uttlesford District Council

Chief Executive: Dawn French

Licensing and Environmental Health Committee

Date: Wednesday, 10th February, 2021

Time: 7.00 pm

Venue: Zoom - <https://zoom.us/>

Chairman: Councillor P Lavelle

Members: Councillors S Barker, C Day (Vice-Chair), R Freeman, V Isham, P Lees, B Light, J Loughlin, L Pepper and M Tayler

Substitutes: Councillors A Armstrong, A Coote, C Criscione, P Fairhurst, M Foley, A Khan and E Oliver

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting. A time limit of 3 minutes is allowed for each speaker. Please register your intention to speak at this meeting by writing to committee@uttlesford.gov.uk

Public speakers will be offered the opportunity for an officer to read out their questions or statement at the meeting, or to attend the meeting over Zoom to readout their questions or statement themselves.

Members of the public who would like to watch the meeting live can do so [here](#). The broadcast will be made available as soon as the meeting begins

AGENDA

PART 1

Open to Public and Press

- 1 Apologies for Absence and Declarations of Interest**
To receive any apologies for absence and declarations of interest.
- 2 Minutes of Previous Meetings** 4 - 19
To consider the minutes of Licensing Panel meetings held since the previous Committee meeting on 29 September 2020.
- 3 Review of Licensed Vehicle Emissions Policy** 20 - 24
To consider the Licensed Vehicle Emissions Policy.
- 4 Taxi and Private Hire Fees 2021-22** 25 - 41
To consider the licence fees in respect of Hackney Carriage, Private Hire and Operator Licences for 2021/22.
- 5 Training Day Implementation and Driver License Option** 42 - 44
To receive information regarding the necessary changes to Private Hire and Operator Licences and policy with effect from spring 2021.
- 6 Enforcement Update** 45 - 47
To receive an update on the enforcement activities carried out by Licensing Officers during the period of 30 September 2020 and 28 January 2021.

REMOTE MEETINGS AND THE PUBLIC

to the Government's social distancing measures imposed in the wake of Covid-19, the way in which the public can participate in Uttlesford District Council meetings has changed. Meetings are no longer being held on site or in person and 'remote meetings' will be held on the virtual meeting platform Zoom until further notice. Members of the public are welcome to listen live to the debate of any of the Council's Cabinet or Committee meetings. All live broadcasts and meeting papers can be viewed on the Council's calendar of meetings webpage.

If you wish to make a statement via Zoom video link, you will need to register with Democratic Services by midday two working days before the meeting. There is a 15 minute public speaking limit and 3 minute speaking slots will be given on a first come, first served basis. Those wishing to make a statement via video link will require an internet connection and a device with a microphone and video camera enabled. Those wishing to make a statement to the meeting who do not have internet access can do so via telephone. Technical guidance on the practicalities of participating via Zoom will be given at the point of confirming your registration slot, but if you have any questions regarding the best way to participate in this meeting please call Democratic Services on 01799 510 369/410/467/548 who will advise on the options available.

The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. The broadcast will be unable when Part II items are discussed.

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Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

Website: www.uttlesford.gov.uk

Agenda Item 2

**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 2nd to 4th September and 7th 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 27th 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 27th 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 though 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.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at ZOOM -
HTTPS://ZOOM.US/, on WEDNESDAY, 4 NOVEMBER 2020 at 11.00 am**

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

Officers in Attendance: S Mahoney (Senior Licensing and Compliance Officer)
K James (Licensing Support Officer), E Smith (Interim Legal Services Manager) and C Edwards (Democratic Services Officer).

Also present: The applicants in relation to agenda items 3 and 4.

LIC13 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC14 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part1 of Schedule 12A of the Act.

LIC15 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing and Compliance Officer gave a summary of the report. The applicant had applied to the Council for a Private Hire/Hackney Carriage Driver's licence on 30 March 2020 to work for Airports Direct on their contracts.

On the application form the applicant had not declared any convictions. The enhanced Disclosure and Barring Service (DBS) certificate showed two cautions. The applicant took part in an informal telephone interview with the Senior Licensing and Compliance Officer and when asked why these had not been stated in his application, the applicant said that they were cautions with no further action and he had not realised that they needed to be declared.

The Senior Licensing and Compliance Officer said the delay in bringing the application before the Panel was due to the lockdown period and the applicant not returning all the relevant documentation.

The applicant now came before members for them to determine whether he was a 'fit and proper' person to hold a licence as he had not met the Council's licensing standards.

The applicant said that because they were cautions and not convictions he had not realised they had to be declared, he had read the application form incorrectly. The applicant said that he knew they would show up on the enhanced DBS and was not trying to be dishonest.

In response to Members' questions he confirmed that he was in full time employment with Harlow District Council. At the time of the cautions he had been going through a divorce and dealing with bereavement. The Interim Legal Services Manager said that a basic DBS would no longer show the cautions, however they would always remain on the enhanced DBS. The applicant stated that he had an all access pass for Stansted Airport and the basic DBS was carried out and nothing showed up.

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

The applicant left the meeting at 11.20 and the Committee retired to make its decision.

DECISION NOTICE

The application before the Panel is to grant a new joint hackney carriage/PHV driver's licence to the applicant. We are hearing the case remotely. If his application is successful he has an offer of employment from Airports Direct.

We had the opportunity of reading the officer's report in this case, a copy of which has been served on the applicant, and we have also seen, as has he, the background documents annexed thereto including the application form and the DBS documentation supporting the application. We have also taken into account the Council's policy and have heard from the Case Officer and from the applicant.

On his application form, in answer to question 12 'Have you ever been convicted of ANY offence (including motoring offences) including spent and unspent convictions in any Court or received a police caution?' The applicant declared that he had none.

However, the application process required applicants to produce an enhanced Disclosure and Barring Service certificate and the applicant's certificate dated 04 September 2020 showed 2 cautions as follows:

Caution 1 – Offence – Pursued a course of conduct which amounted to harassment on 31 May 2016.

Caution 2 – Offence: Pursued a course of conduct which amounted to harassment on 14 September 2016.

As a consequence, the applicant does not meet the requirements of the Council's suitability policy in two respects.

Firstly, clause 2.3 which states:-

Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false name or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.

Further, clause 2.5 of our suitability policy provides:-

Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

The applicant took part in an informal telephone interview with the Senior Licensing and Compliance Officer, Steve Mahoney. When asked why he had not declared the convictions on his application form, the applicant said that as they were cautions with no further action he had not realised that he had to declare them. When asked for further information, the applicant said that the convictions were classed as digital harassment and the index incidents took place at a time when he was going through a difficult divorce and he sent his now ex-wife some emails because he had felt she was dragging her heels over proceedings. At the same time his mother was critically ill and she subsequently passed away. The combined stress of these situations caused the applicant to act in the way that he did. We take note of this but observe that the fact the incidents were domestic in nature does not in any way impact upon the seriousness of the behaviour concerned.

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 hold a licence then our duty is clear – we should refuse the application. However, we have heard from the applicant and we are satisfied that there was no intention of hiding these matters from us and that harassment, and the nature of a caution are matters that many lay people do not fully understand. He further told us that the offences in question took place at a time when he was going through a divorce and his mother was also terminally ill: we acknowledge that these are major life traumas and that in these circumstances people can sometimes behave out of character. We are satisfied the applicant has insight into what happened and that he is a safe and suitable person to hold a licence.

Accordingly, we are prepared to grant this application and the applicant will receive his paperwork from the Licensing Department in due course. However, we would urge him to read forms more carefully in the future and trust we do not see him before us again.

LIC16

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

The Licensing Support Officer gave a summary of the report. The applicant had applied to the Council for a Private Hire/Hackney Carriage Driver's licence on 27 July 2020 to work for 24/7 Ltd on their contracts.

On the application form the applicant had not declared any convictions. The enhanced Disclosure and Barring Service (DBS) certificate showed one conviction.

The applicant now came before members for them to determine whether she was a 'fit and proper' person to hold a licence as she had not met the Council's licensing standards.

The applicant apologised and said that 24/7 had filled in the application on her behalf and had sent in the wrong form.

In response to Members' questions she confirmed that due to current restrictions the form had been filled in over the phone. She has been a passenger assistant for 4 years in Central Bedfordshire. The conviction was 4 years ago and related to her son's attendance at school. The applicant confirmed that she had not been told where she would be driving for 24/7 but said she thought they had a contract in Bedfordshire.

The importance of applicants filling out their own applications was discussed. This and previous mistakes had been caused by 24 x 7 Ltd completing the application on behalf of the applicant. The Senior Licensing and Compliance Officer explained that the application process was due to become an online system and this would hopefully alleviate the problem. Members discussed and the Chair agreed to send another letter to 24 x 7 Ltd.

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

The applicant left the meeting at 11:40 and the Committee retired to make its decision.

DECISION NOTICE –

The application before the Panel today is for the grant of a new joint hackney carriage/PHV driver's licence to the applicant. We are hearing this case remotely. If her application is successful she has an offer of employment from 24 x 7 Ltd on the school contracts side of the business.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the applicant, and we have also seen, as has she, the background documents annexed thereto including the application form and the DBS documentation supporting the application. Additional information has been supplied by 24 x 7 Ltd, accepting some responsibility for what has happened. We have also taken into account national and the Council's policy and have heard from the Case Officer and from the applicant.

On her application form, in answer to question 6 '*Do you have any unspent convictions?*'

The applicant declared she had none.

Part of the application process requires applicants to produce an enhanced Disclosure and Barring Service certificate and the applicant's certificate dated 28 July 2020 shows 1 conviction as follows:

Conviction 1 – Offence – Knowingly failed to cause regular attendance at school of a registered pupil on 06 November 2017.

The applicant therefore does not meet the requirements of clause 2.3 of the Council's suitability policy which states:-

'Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false name or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.'

The applicant's employer 24 x 7 Ltd accepted full responsibility for the error, advising that the fault lay with them insofar as the applicant was apparently unaware of the Court decision against her, arising from the failure of one of her children to attend school. Furthermore, the applicant advised that she had completed two application forms, the later one disclosing the conviction, and that the operator had sent in the wrong form. However, though this is some mitigation, nevertheless it was her application and she is responsible for its accuracy.

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 hold a licence then our duty is clear – we should refuse the application. However, we have heard from the applicant and note what she said about the forms above. We also note that she has been working as a passenger assistant on school contract runs for some six years: we do have some concerns regarding her uncertainty as to where she would be driving, but understand from officers that 24 x 7 Ltd have a bank of school contract drivers and assign them a route as and when needed.

We were not entirely satisfied with what the applicant told us about the offence. We consider that she did not tell us very much about the surrounding circumstances and we do not have sufficient information as to current prosecution practice in Bedfordshire, where she lives, to decide whether this was an exceptional case or not. However, we do note her enthusiasm and commitment to the work and see no reason why she should not be a safe and suitable person to undertake this role.

Accordingly, we are prepared to grant this application and the applicant will receive her paperwork from the Licensing Department in due course.

The meeting ended at 11.54am.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at ZOOM -
HTTPS://ZOOM.US/, on TUESDAY, 29 SEPTEMBER 2020 at 7.00 pm**

Present: Councillor P Lavelle (Chair)
Councillors S Barker, C Day, R Freeman, P Lees, B Light,
J Loughlin, L Pepper and M Tayler

Officers in attendance: T Cobden (Environmental Health Manager - Commercial),
B Ferguson (Democratic Services Manager), J Livermore
(Senior Licensing and Compliance Officer), S Mahoney (Senior
Licensing and Compliance Officer), E Smith (Interim Legal
Services Manager), B Stuart (Accountant) and R Way (Licensing
and Compliance Manager)

LIC4 CHAIR'S OPENING REMARKS

The Chair opened the meeting and thanked the Licensing and Environmental Health Team for their exceptional work throughout the Covid-19 crisis.

Mr Andy Mahoney and Mr Doug Perry addressed the Committee. Summaries of their statements have been appended to these minutes.

LIC5 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence.

LIC6 MINUTES OF PREVIOUS MEETINGS

The minutes of meetings held since 25 July 2019 were approved as true and correct records.

LIC7 GOVERNMENT STATUTORY TAXI AND PHV STANDARDS GUIDANCE

The Licensing and Compliance Manager presented the report on the Government's statutory Taxi and Private Hire Vehicle (PHV) guidance. He said there were a number of areas that had been identified for improvement, including decision making, safeguarding training and wider consultation with the Trade and community groups.

The Chair explained that the policy implemented in 2019 was largely in line with the Government guidance, although the revision would impact on the way in which the Council communicated with other Local Authorities regarding UDC drivers operating outside of the district. The issue of "County Lines" was also highlighted in the guidance and measures would also need to be put into place to ensure there was adequate control.

In response to a question from Councillor Light, the Chair said the costs of the measures would be borne by service users, not residents.

The Licensing and Compliance Manager said he did not anticipate any financial issues; whilst there may be a small uplift in costs to facilitate safeguarding training, this would be covered by operators rather than individual drivers.

In response to a question from Councillor Loughlin regarding criminality checks on overseas drivers, the Licensing and Compliance Manager said a certificate of good character was requested at the point of application, which was issued by the individual's national embassy.

The Chair added that all convictions were taken into account when issuing a taxi or PHV license, regardless of whether the conviction had been served, or how long ago the offence had taken place. The priority of the licensing team was the safety of the user and all drivers had to be fit and proper to attain a license.

The Legal Services Manager concurred and said the Rehabilitation of Offenders Act 1974 did not apply in the determination of licensing applications.

RESOLVED to adopt the Government's new Statutory Taxi and Private Hire Standards in full.

LIC8 **IMPLEMENTATION OF NR3 INFORMATION SHARING POLICY**

The Licensing and Compliance Manager presented the report on the implementation of NR3 information sharing policy.

RESOLVED to support the NR3 information sharing policy and for it to be added to the Licensing Policy relating to the Hackney Carriage and Private Hire Trade.

LIC9 **TO IMPLEMENT NEW SIGNS AND DASH BADGES FOR UTTLESFORD VEHICLES**

The Senior Licensing and Compliance Officer (SM) presented the report on the implementation of new signs and dash badges for UDC vehicles. He said currently it was difficult to identify UDC vehicles and the new signage would assist residents in that regard. Safeguarding was at the heart of the proposal.

Councillors Loughlin and Light expressed concerns regarding the new signage, particularly that it could be counterfeited to give a false impression of security and to mislead passengers.

The Senior Licensing and Compliance Officer (SM) said he was an advocate of the scheme and believed that it would lead to greater safety for passengers. Members were informed that the signs and badges were of high quality and had anti-counterfeiting measures incorporated in the design (e.g. a hologram).

RESOLVED to fully support the implementation of new Uttlesford Signs (door and dashboard) which aim to improve the safety of the public.

LIC10 **UTTLESFORD TO MANDATE THAT ALL DRIVERS SIGN UP TO THE DBS UPDATE SERVICE**

The Licensing and Compliance Manager summarised the report detailing the proposal to mandate all drivers in Uttlesford to sign up to the DBS update service. He said that new Government statutory guidance had been issued in July 2020, which gave licensing authorities two options to ensure risk was effectively managed:

1 – Drivers are required to register with the online DBS Update Service so that Licensing Authorities can do carry out regular status checks using a Home Office function entitled ‘Multiple Status Checks’.

2 – An Enhanced DBS is manually carried out on each driver every 6 months

He recommended that option 1 was approved by Members, as this was deemed best practice. He said the proposals had been sent out for consultation with the Trade and the feedback received had only been positive. He said this would take three years to roll out, but once everyone was signed up, feedback would be communicated from the Home Office which would alert the Council if a driver was no longer ‘fit and proper’ in the event they had committed a crime.

In response to a question from Councillor Light, the Licensing and Compliance Manager said an enhanced DBS check was currently only carried out every three years on a driver, at the point of renewing their licence. The new system would allow such checks to be carried out every six months, and therefore was deemed safer.

RESOLVED that drivers are required to register with the online DBS Update Service so that Licensing Authorities can carry out regular status checks using a Home Office function entitled ‘Multiple Status Checks’.

LIC11 **EXEMPTIONS FOR THE EMISSION POLICY**

Councillor Lees left the meeting at 7.55pm.

The Senior Licensing and Compliance Officer (JL) introduced the report reviewing the Licensed Vehicle Emissions Policy. He said the current Emissions Policy had come into effect on 1 April 2020, which dictated that licensed vehicles met or exceeded a prescribed European emission standard. There were variations to the standard, which depended on factors such as the type of fuel and whether the vehicle was already licensed by the Council. The Policy also stated that “each application would be considered on its own merits”. He highlighted recommendations 2.2 and 2.3 as stated in the report.

In response to a question from councilor Loughlin, the Chair said that only seventeen vehicles would be covered by the proposed exemption – this was not a blanket policy. Non-wheelchair accessible vehicles that did not meet the emissions standard would have their licences revoked after a period of 6 months following the official announcement that social distancing guidelines had been completely relaxed, or after 1 April 2025, whichever date occurred sooner; Wheelchair accessible vehicles would be given until 1 April 2026 to meet the emissions standard.

Councillor Freeman said he was nervous about granting exemptions to polluting vehicles, although he understood the need to retain licenses for wheelchair accessible vehicles.

In response to a question from Councillor Barker regarding the April 2025 “backstop”, the Senior Licensing and Compliance Officer (JL) said the date was chosen as there was complete uncertainty when social distancing measures would come to an end.

In response to a question from Councillor Tayler, the Senior Licensing and Compliance Officer (JL) said annual checks were made on the seventeen vehicles that would be covered by the exemption. They were road worthy.

The Chair said there was a “trade-off” in terms of the utility of larger vehicles in a time of social distancing. Whilst larger vehicles did create more pollution, they also enabled drivers to carry more than one person at a time.

Councillor Day said the proposal was reasonable; not all of the drivers covered by the exemption policy worked for large organisations, and the five years’ grace period would allow them to save for a cleaner vehicle.

RESOLVED that:

- I. Vehicles that were granted exemptions under the Licensed Vehicle Emissions Policy but that are not wheelchair accessible, should either have their licences revoked after a period of 6 months following the date of an official announcement by the UK Government that social distancing guidance has been completely relaxed, or will have any application made to renew their licences refused after 1 April 2025, whichever sooner.
- II. Wheelchair Accessible Vehicles to be given a later date for the implementation of a prescribed minimum European Emission Standard. Licensing Officers recommend a minimum European Emission 6 for both new licences and renewed licences after 1 April 2025. This would in practice mean that all Wheelchair Accessible Vehicles by 1 April 2026 will be no more than 12 years old. Using the figures in 6.10, only 7 of those vehicles would meet the minimum Standard by this date.

- III. All licensed vehicles would continue to be required to undergo 2 mechanical inspections per year at a Council approved testing station, alongside the mandatory MOT, therefore alleviating any potential concern over the roadworthiness of an older vehicle.
- IV. All other parts of the existing Policy to remain in force. This includes the discretion to deviate from the Policy as referenced in 1.3, however a strong business case would be required in writing for the Licensing Manger to approve.

LIC12 **FEES FOR DRIVERS, HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES AND PRIVATE HIRE OPERATORS**

The Accountant presented the report for information regarding fees for drivers, Hackney Carriages, PHV and Private Hire Operators (PHO). In summary, he said such fees were reviewed on an annual basis to ensure that the cost of delivering the service was covered by incoming fees. The current review had concluded that the cost associated with the licensing process was inline with the current fees charged. However, in order to implement more robust procedures, as outlined by the proposals Members had considered earlier in the meeting, there was a need for fees to rise in order to recover the extra costs of the service. The proposed fee structure would be sent out to the trade for consultation. Any objections received would be reported back to this Committee at the point of considering the structure for approval.

In response to a question from Councillor Barker regarding the disparity of percentage increases, the Accountant said the proposed new standards impacted on licence holders in different ways, for example the difference between private hire operators and individual drivers, and therefore the fees differed in accordance with the costs associated with the relevant service.

The Environmental Health Manager (Commercial) said the proposed fee structure would now be put out for consultation with the trade.

The report was noted.

The meeting ended at 8.15pm.

Public Speaking

Mr Mahoney

Mr Mahoney said that recent months had been very difficult for the taxi trade. Whilst school transport contracts had continued, he highlighted the aviation industry's recent struggles which had significantly impacted upon the trade's business. He said there had been licensing problems across the UK due to the impact of Covid-19, but UDC had handled such problems relatively well and were in a good position in comparison to other councils. He said he agreed with the proposal to move away from license renewals only occurring in July and August, due to the burden it placed on the licensing service but also the length of time drivers had to wait for their applications to be processed. He said this was particularly problematic for the vulnerable children who were taken to school by his fleet, who needed consistency and required specially trained drivers. He concluded by referring to the Dash Badges and Signs proposal that would be considered by Members; he warned the Committee that putting signs on licensed vehicles could lead to a false sense of security and would not necessarily increase the safety of passengers.

Mr Perry

Mr Perry said the epidemic had been a disaster for the trade, as demonstrated by the fact that many businesses had closed and drivers had left the industry to work elsewhere. The trade and authorities must continue to work together to overcome the public health emergency. He noted the item on statutory standards for taxis and PHVs and said the trade were fully behind the protection of drivers and passengers. However, he said such measures were required due to the emergence of Uber and the fact that their drivers had not been suitably trained. He requested that the trade be consulted on any safety measures proposed, e.g. CCTV. He concluded by asking Members to remember that it was for councilors, not officers, to determine applications and warned against implementing delegated powers.

Agenda Item 3

Committee:	Licensing & Environmental Health	Date:	10 February 2021
Title:	Review of Licensed Vehicle Emissions Policy		
Report Author:	Jamie Livermore, Senior Licensing & Compliance Officer, 01799 510326	Item for decision:	Yes

Summary

1.1. Members will be aware that the Committee adopted the current Licensed Vehicle Emissions Policy - **attached as Background Paper A** - on 20 March 2020, which subsequently came into effect on 1 April 2020, and was last revised on 29 September 2020.

1.2. In brief, the Policy requires vehicles licensed by Uttlesford District Council to meet or exceed a prescribed European Emission standard. The prescribed standard differs depending on the type of fuel, whether the vehicle is wheelchair accessible (WAV's), and whether the vehicle is currently licensed by the Council or is being applied for as new.

1.3. From 1 April 2021, vehicles that are currently licensed by Uttlesford District Council will be required to conform to a minimum Euro Emission Level 5 upon their subsequent licence 'renewal' following that date, otherwise they will be refused.

Recommendations

2.1. Members are asked to consider whether the requirement referenced in 1.3 should be retained, amended or removed.

2.2. In considering whether to amend the requirement referenced in 1.3, Members may wish to consider revising other requirements of the Policy if and where deemed appropriate.

2.3. In considering whether to remove the requirement referenced in 1.3, Members should note that this would result in vehicles licensed by Uttlesford District Council being required to conform to Euro Emission Standard 6 upon their subsequent annual licence renewal from 1 April 2023.

Financial Implications

3.1. The financial effect to the taxi and private hire trade would be dependent on the decision the Committee wish to take.

3.2. An amendment or removal to the requirement referenced in 1.3 would in practice result in a lesser financial burden to members of the taxi and private hire trade who currently licence a vehicle classified below a Euro Emission Standard 5.

Background Papers

4.1. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

A. Licensed Vehicle Emissions Policy

Impact

5.1.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6.1. At the time of this Committee, vehicles that are currently licensed by Uttlesford District Council have not been affected by the Policy which first came into effect on 1 April 2020. That is with the exception of non-WAV's that were licensed for the first time since this date as they are now subject to a minimum Euro Emission Standard 5 or 6 Standard depending on the type of fuel.

6.2. As of 27 January 2021, approximately 101 out of the 2332 total vehicles currently licensed by Uttlesford District Council will not meet the required Euro Emission Standard and subsequently be refused their licence renewal between 1 April 2021 and 1 April 2022 when the existing expiry date is reached.

6.3. For the assistance of the Committee, the Euro Emission Standard 5 became mandatory for new passenger vehicles registered from January 2011.

6.4. The Licensing Team have been approached by several members of the taxi and private hire trade who have voiced concerns over the requirement referenced in 1.3 being implemented at a time where they

continue to be detrimentally affected by the Coronavirus (Covid-19) pandemic.

6.5. Officers believe it is therefore appropriate to ask the Committee to consider its policy taking into account the current circumstances.

Risk Analysis

7.1.

Risk	Likelihood	Impact	Mitigating actions
The policy could be judicially reviewed	Unlikely	1	The Committee must make fair and appropriate considerations that can be justified

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Licensed Vehicle Emissions Policy

The purpose of this policy is to ensure taxis are as safe, reliable and comfortable as possible while at the same time minimising emissions. The policy aims to have a positive impact on emissions as it is recognised that the age of vehicles and the exhaust emission specification are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the taxi and private hire fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

Emission Standards

First Licence Application:-

- DIESEL vehicles must meet or exceed Euro 6 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 5 emissions standards from **01/04/2020**
- OTHER vehicles must meet or exceed Euro 6 emissions standards from **01/04/2021**
- WHEELCHAIR ACCESSIBLE vehicles must meet or exceed Euro 6 emissions standards from **01/04/2025**

Licence Renewal:-

- From **01/04/2021** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 5 emissions standards
- From **01/04/2023** any licensed vehicle due for its annual licence renewal must meet or exceed Euro 6 emission standards
- From **01/04/2025** any wheelchair accessible vehicle due for its annual licence renewal must meet or exceed Euro 6 emissions standards

Where vehicles do not meet the relevant emissions criteria the proprietor may:

- Have the vehicle adapted / modified to meet the standard and provide evidence of this
- Change the fuel that is used to the cleaner alternative, such as bio diesel, or;
- Replace the vehicle with one that meets the emission standard

Notwithstanding that each application will be considered on its own merits.

When will the different criteria be applied?

If the licence of a currently licensed Hackney Carriage or Private Hire vehicle is allowed to **EXPIRE** by its proprietor then any subsequent application will **NOT** be considered as a renewal.

This means that where an existing vehicle licence expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.

For the avoidance of doubt, when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the criteria of a vehicle being licensed for the first time.

Low emission and electric vehicles

The Council encourages the uptake of low emission and electric vehicles in the District. The Authority will seek to examine the feasibility of introducing schemes which will help improve the charging network and aid drivers in testing and purchasing electric vehicles.

Committee: Licensing and Environmental Health Committee

Title: Fees for Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operators

Report Author: Russell Way, Licensing and Compliance Manager

Date:
Wednesday, 10
February 2021

Summary

1. The purpose of this report is for Members of the Licensing and Environmental Health Committee to review and approve the licence fees in respect of Hackney Carriage, Private Hire and Operator Licences with effect from 1 April 2021
- 1.1 The proposed increases in respect of Hackney Carriage and Private Hire Vehicle Licences and Private Hire Operators Licences have been duly advertised for the required period of 42 days and the objections received are included in this report (Appendix D).

Recommendations

2. To review and approve the licence fees in respect of Hackney Carriage, Private Hire and Operator Licences with effect from 1 April 2021.

Financial Implications

3. There are cost implications to the Council in undertaking this legal duty and this is recognised in the legislation which provides for the recovery of the costs of administering the scheme and ensuring compliance.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection.

Appendix:

- A – Forecast deficit/surplus for 2020/1 to 2022/23
- B - Recoverable administration costs of each licence
- C - Fees and charges from Essex and neighbouring Authorities for information
- D – Consultation Responses and officers reply
- E - Rationale for increase in officer establishment Mr Way

Impact

5.

Communication/Consultation	Operators and Hackney Carriage Proprietors and Trade Association were emailed as part of a 42 day consultation process. Adverts' in newspapers and communications using websites and social media were also used. The 6 responses from 2500+ drivers have been captured below
Community Safety	<p>Uttlesford Licensing Committee have agreed to seek to meet the Government's Standards that was accepted by the council in September. The fees for Hackney Carriage, Private Hire and Operator Licences are reviewed by the Council on an annual basis to determine whether the income received from the previous year has been in line with the cost of delivering the service.</p> <p>The basis of the costing review for licence fees consists of an analysis of the time taken and/or cost for each element of the licensing process. This review has been undertaken and it has been identified that the total timings and costs associated with the licensing process is in line with the current fees charged.</p> <p>However, in order to meet the new DfT Standards - additional process and compliance time has been calculated and additional staff are needed. Support by elected members will be necessary in order to fulfil this requirement</p>
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	This is a proportionate response to ensure licensing authorities including Uttlesford carry out their due diligence. This ensures Uttlesford drivers have not been revoked or refused a license by another licensing authority.
Sustainability	N/A

Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

6. It is a statutory requirement for this Committee to review and approve the licence fees.
- 6.1 The Council are legally entitled to charge such a fee for licences and they consider reasonable with a view to recover the costs of the issue and administration of the licence.
- 6.2 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 the cost of a licence must be related to the cost of the licensing scheme itself. It is therefore appropriate for a local authority to recover their administrative and other associated costs.
- 6.3 The fees for Hackney Carriage, Private Hire and Operator Licences are reviewed by the Council on an annual basis to determine whether the income received from the previous year has been in line with the cost of delivering the service. The basis of the costing review for licences fees consists of an analysis of the time taken and/or cost for each element of the licensing process. This review has been undertaken and it has been identified that the total timings and costs associated with the licensing process are in line. The proposed fee increase is therefore quite minimal. However, in order to meet the new Government Standards, more checks and procedures are needed and an additional 1.5 officers are needed. Their time will be spent 1) Establishing information sharing protocols between UDC & those stakeholders who provide and contract regulated services using Uttlesford licenses 2) initiating and undertaking compliance work relating to vehicles/garages. As a result, this necessitates the fees for vehicles and drivers amending to recover the extra costs. Please see APPENDIX E
- 6.4 The increase in licence fees required in order to fully recover the underlying costs associated with the issue and recoverable administration costs of each licence type is shown in Appendix B. Appendix A shows the forecast deficit/surplus for 2020/21 to 2022/23 on the assumption that the fees are increased as proposed in Appendix B. The forecast deficits and surpluses in these years relate to the fact that there is a timing mismatch between when the income for driver and operator licences are received and when the costs are incurred for these licences. It is because of this 'timing mismatch' that the licensing reserve was established in order to hold some of the income received from driver and operator fees until the costs relating to this income have been incurred and the two can be offset against each other.
- 6.5 A table showing fees and charges from Essex and neighbouring authorities is attached for information as Appendix C. This shows Uttlesford as still having the lowest vehicle licence fees and among the lowest driver and operator fees.

- 6.6 Members are asked to approve the fee structure proposed in Appendix B to come into effect on 1 April 2021
- 6.7 A number of objections have been received by the Council following both the advertisement notifying of the proposed increase in charges as well as in response to a consultation meeting with the trade on 24th November 2020. These objections are shown in Appendix D.
- 6.8 Background information is also provided for Members in Appendix E detailing rationale to fund additional officers

Risk Analysis

7.

Risk	Likelihood	Impact	Mitigating actions
<p>3 = Significant risk or impact – action required</p> <p>There is a need for the council to ensure it meet the Government standards.</p>	<p>2 = Some risk or impact – action may be necessary.</p>	<p>3 = Significant risk or impact – action required</p>	<p>3 = Significant risk or impact – action required</p>

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix A : Forecast expenditure and income for Taxi licensing (Note a) and movement on the licensing reserve.

	Actual 2019/20 £	Forecast 2020/21 £	Forecast 2021/22 £	Forecast 2022/23 £
Expenditure (b)	576,317	464,325	634,321	646,474
Income (c)	565,769	419,546	647,742	647,742
Deficit/Surplus (-ve is deficit)	-10,548	-44,779	13,421	1,268
Reserve balance b/f	90,273	79,725	34,946	48,367
Reserve balance c/f	79,725	34,946	48,367	49,635

Notes

- (a) The expenditure relates to the costs incurred in year processing and issue of applications and also includes checks to ensure standards are adhered to.
- (b) i) Assumption of 2% annual inflation on supplies and services, 2% pay awards and contractual salary increments.
 ii) Staffing costs are based on surveyed number of hours spent on processing licence applications and checks to ensure standards are adhered to.
 iii) Expenditure includes overhead costs for the licensing department allocated on fair and proportionate bases i.e. office accommodation costs are based on square footage occupied and ICT costs are allocated on basis of software/hardware used etc.
 iv) In computing the expenditure a churn rate of 10% has been used i.e. an assumption that 10% of driver licences are given up in the following year.
- (c) Income forecast assume the following estimated number of licences.

Estimated number of licences

	Forecast 2020/21	Forecast 2021/22	Forecast 2022/23
New vehicle licences	1270	1700	1700
Renewal licences	968	970	970
New driver licences	420	600	600
Renewal driver licences	205	530	530
New Operator licences	7	7	7
Renewal Operator licences	99	7	7

Appendix B :Proposed new licence fees from 1st April 2021

	CURRENT	PROPOSED	INCREASE	INCREASE
			Note 1	PER WEEK
	£	£	£	£
Driver new licence - 3 years	216	218	2.00	0.01
Driver renewal licence - 3 years	215	218	3.00	0.02
Driver new licence - 2 years	199	202	3.00	0.03
Driver renewal licence - 2 years	198	202	4.00	0.04
Driver new licence - 1 year	182	186	4.00	0.08
Driver renewal licence - 1 year	181	186	5.00	0.10
Vehicle new licence - 1 year	108	145	37.00	0.71
Vehicle renewal licence - 1 year	96	145	49.00	0.94
Vehicle transfer licence	100	105	5.00	0.10
Operator new licence – 5 years	478	493	15.00	0.06
Operator renewal licence – 5 years	476	493	17.00	0.07

Note 1: The reasons for the change in the licence fees are as follows :

- i) A detailed review of time spent on tasks involved in administering each taxi licence has been undertaken.
- ii) The cost of staff involved in administering the taxi licensing process has been updated.
- iii) It is planned to increase the checks made on operators and vehicles from 1st April 2021. This will be done by recruiting an additional full time officer

Appendix C :Taxi licence fees in other Essex Authorities

	Duration	Type	Basildon £	Braintree £	Colchester £	Harlow £	Maldon £	Tendring £	Thurrock £
Driver - HC and PHV combined	3 years	New	290	269	190	405	216	274	445
Driver - HC and PHV combined	3 years	Renewal	190	269	170	295	216	150	405
Vehicle - Hackney carriage	1 year	New	390	330	400	298	235	334	217
Vehicle - Hackney carriage	1 year	Renewal	375	330	400	298	235	334	217
Vehicle - Private hire	1 year	New	340	278	350	298	235	334	313
Vehicle - Private hire	1 year	Renewal	325	278	350	298	235	334	313
Operator - 11 of more vehicles	5 years	New	1,250	444	400	710	216	1,897 *	3,690

* £367 for 1 vehicle + £153 for each additional vehicle

- Email 1 -

Good afternoon,

I have reviewed the consultation paper regarding the proposed fee increase.

I understand the main reason for the increase is to cover costs regarding the implementation of the Govt's paper "Statutory taxi and private hire standards".

If the proposed fees are adopted, how much will be raised by the increases and how does UDC plan to spend the money?

There appears to be no increase in driver licences. Is this correct?

I note from the documents supplied by Russell Way the UDC has:

- 12th highest number of drivers in the UK
- 7th Highest number of licensed vehicles
- 10th highest number of operators
- We have 28 PHV per 1000 people – most are 1-2 PHV per 1000

I suspect that the reasons behind points 1, 2 and 4 are caused by one particular operator supplying a large number of school transport in various locations around the country and the same operator having the airport franchise. If that one operator is removed from the figures, how does that then align UDC in the country?

It concerns me, I'm sure that it does Licensing too, that so many of your approved drivers and vehicles are operating out of the district and any negative feedback / publicity could have an impact on us all. Has UDC considered a tier fee for operators in a manner such as TFL do? Addison Lee, for example pay TFL over £700,000 for a 5 year operator's licence. Is it worth considering a scheme where the more vehicles that an operator has, the greater the fee that they pay?

There's been some large fee increases during the 5 years that I have been an operator, significantly above the rate of inflation, and in the current climate where most operators have seen a large drop in income. Can it be really justified?

Kind Regards,

- Reply Email 1-

Thank you for your email

The fees and charges are set at nil capital cost to Uttlesford Council. This means that the income derived therefrom covers the expenditure of the council in providing the service, eg processing applications, administration etc. This is reviewed yearly and for the next financial year we will incur some additional costs to meet the new mandatory DfT Standards.

You are correct there is a £2 increase in driver fees.

I note your point with regard to one Uttlesford operator. However it is immaterial to the fee charged if that operator is removed from the equation, the fee set per application, calculated upon the basis of the cost of the time taken to do the work will still be the same, but the number of Uttlesford staff would decrease as the expenditure would be less, though the income would still need to cover staff costs.

To meet the Standards we are proposing that there be an increase in staff which will be used to carry out greater enforcement activity, some of which will be carried out from a distance..

I appreciate that TFL and other councils charge a levied fee depending on the number of vehicles that are used by each operator. However it is our belief that this is not good practise and we have been advised such a policy could be challenged.

The fee increase is necessary in order to cover the additional compliance processes that the DfT Standards places upon the Council. These are mandatory, declining to adopt them is unfortunately not an option and Uttlesford have to fulfil this obligation.

With best wishes

Russ

Russ Way

Licensing and Compliance Manager

- Email 2 -

Dear Mr Way

Many thanks for arranging the meeting with officers and Cllr Lavelle. XXXXXX, you are aware that pandemic has devastated the local and PH trade.

I would like to object to the increase in Vehicle licence fees of between 34% and 51% under normal conditions this would be looked at as being a substantial increase and not a minimal increase. I understand that the increase is required in order for you to employ an addition enforcement officer however the additional revenue would be in the region of £80,000. This is a good deal greater than the costs of an enforcement officer.

If the officer is to be involved with all agency checks at Stansted airport the costs should come from recovery of moneys from prosecution or the public purse and not from the local trade, as these costs cannot form a part of the recovery of licence fee costs. Please can you explain the utilisation of the additional staff member along with the additional moneys that are being applied to vehicle costs.

Please could you also explain why in the past two years we have been given sight of abbreviated accounts when in the past we were supplied with full licensing accounts with the spite between Hackney and PH against the other licensing costs. This arrangement was the agreed format following the agreement reached with the Licenced trade after the discovery of in excess of £160,000 being wrongly charged to the licenced trade under the 1976 act.

Furthermore I ask that you take the following into account.

Since midsummer it has become extremely obvious that the support for Taxi & Private Hire Vehicle Drivers, including chauffeurs has been extremely limited. This is in spite of the fact but these drivers have been in one of the highest 'at risk' groups of workers.

Support from government has been limited, this in part is because grant assistance does not take account of the need for these drivers to continue and maintain their vehicle and driver licence statuses, vehicle repayment costs and insurance. Those working also have the additional costs of facial coverings, PPE and cleaning materials.

These drivers have not been helped by bounce back loans, the excellent furlough scheme or by Central government grant money that for instance covers council tax or defers VAT payments.

Whilst some drivers have been fortunate enough to get some payment holidays for their vehicles, where they have been secured these have been short lived and the expenditure needed to make repayments is in no way met by the money available to the self-employed driver.

Where support is available, it is rules based, complex and difficult to secure, often leaving drivers with no easy route to support.

In many cases, parts of the working population of drivers, particularly in the airport transfer, hospitality and events supporting part of the industry there has been no work at all. Drivers have been encouraged by government, the NHS, ambulance services, rail and air disruption service providers and the educational sector to be available during the pandemic.

Even where there is work for drivers it is much reduced and subject to the vagaries of the pandemic. Drivers for example that had been expected to be available and ready for contracted work, for the entities above, have been laid off with no notice for example when they are contacted by track and trace to say that they have been in close proximity to someone who has shown as positive for Covid-19.

The biggest dilemma for drivers trying to survive and do some work during the pandemic are the overheads that they need to keep in place despite the massive downturn in work or the fact that work can be terminated or withdrawn at a moment's notice.

You will be aware that In July I wrote to Secretary of State for Transport the Rt. Hon. Grant Shapps MP and said I am writing to draw your immediate attention to serious problems risking the sustainability of the private hire (taxi) industry. It is my considered opinion, following events culminating over recent days, that a significant part of the sector may collapse this summer.

Sadly, I was right as there are many closures of smaller operators, serious reductions of drivers returning to the trade, with Taxis & Private Hire Vehicles being stockpiled off road.

The industry needs all the help it can get to keep going and return when the pandemic is over. It cannot sustain vehicle costs increasing by 39 to 51% we are in danger of not being able to serve the greatly reduced trade that is there and therefore will not be in a position to adequately meet the public safeguarding that is expected of the public. We need availability of licenced drivers and vehicles in order to be able to carry out this function.

I therefore ask you to reevaluate the requirement of an extraordinary large vehicle licence fee increase.

- Reply Email 2 -

Thank you for your email. I apologise for the delay in replying.

The increases on vehicle fees are not only due to the cost of the additional Enforcement Officer but also

- the cost of the new plates, dash badge and door signs that the Licensing Committee now require, some of which is required under the new Standards.
- additional technical help from Uttlesford staff (not in the licensing team) to help work with our garages “

My understanding on the finance issue that you raise is that accounts have been provided which show in sufficient detail the breakdown of all costs incurred and income received for Taxi licensing activities and the movement on the licensing reserve.

I am grateful for your comments in regard to the plight of the trade. It is clear that like other industries it has been a very challenging time for companies and individuals and there is still an uncertain future for the trade. As you are aware the Government have set mandatory Standards and Uttlesford must now work with the trade and stakeholders to reach them. This will not be easy and there will be a number of challenges and costs that will need to be met by the council, operators and stakeholders alike in order to achieve the required standards.

Unfortunately this is not easy and comes at a very difficult time for us all, but to embed new policy, processes and compliance we will need additional officers.

Kind regards

Russ Way

Licensing and Compliance Manager

- Email 3 -

Dear Mr Way

Many thanks for the opportunity of the 24/11 informal forum with officers and to Cllr Lavelle for attending as observer. Doug Perry, Andy Mahoney, Robert Sinnott, Richard Ellis and I have since met to consider and develop ULODA's formal response to the consultation. We believe our comments are fair, reasonable and in the spirit of the current national pandemic which has hit the local taxi trade so hard.

Our first objection is that the trade is being asked to accept a massive increase in fees and charges for vehicles of an estimated 34% to 51% (excluding transfers). Your report to the Licensing Committee (para 4) says "the proposed increase is quite minimal". Well, it isn't, is it? It may be quite minimal for drivers and operators, (estimated to be between 0.9% and 3.6%) but to seek or impose an increase of at least 34% on vehicle fees is neither fair nor reasonable in any circumstances. Thus we ask Members to reject it on the grounds that it IS fair and reasonable to use the Council's general fund to cover the projected cost of an additional compliance officer as proposed in the report (para 4). You will probably be aware (your colleague Liz Smith certainly will) of a recent case (Wakefield MBC, 2019): the general proposition that LA licensing activities should be self-funding does NOT apply to taxi licensing - because of the limited powers given to local authorities by LGMPA. The Council has a discretion to carry forward any deficit and seek to recover it via increases in future years and to make up for any shortfall via the general fund. So why not Uttlesford being helpful to the trade by absorbing the proposed cost of an extra FTE head?

A further consideration is to challenge one of the assumptions underpinning the forecast expenditure (Appendix A). Note (b) i) uses 2% to cover pay awards for planning purposes. It is prudent, we suggest, to reduce this annual inflation assumption to NIL or at best 1%. Please ask your accounting colleague Brian Stuart to recalculate the projections and forecasts to reflect these lower inflation figures. Using the 2% figure, our calculations show that the proposed increase varies from 0.9% to 3.6% for drivers and operators: using a NIL or 1% inflation assumption will, we believe, reduce any increase to close to ZERO. The Council will thus be showing its willingness to be sympathetic to the trade's financial interests at this difficult time by NOT increasing licence fees. Please help us by being fair and reasonable in order to earn our heartfelt thanks when the taxi trade is being seen in the media as "the forgotten industry". A win for Uttlesford is a win for the trade.

Our final thought is to mount a legal challenge to the fee increase. We have taken advice from a leading Barrister in the trade to confirm that the licensing costs which are recoverable by an LA in respect of vehicles and operators are limited to vehicle inspection costs for the specific purpose of determining their suitability to be licensed, reasonable cost of providing hackney carriage stands, reasonable administration costs for processing licence applications and reasonable costs associated with the control and supervision of hackney carriage and private hire vehicles. Please ask Liz Smith if she will kindly check with her QC contact that our interpretation of s.53 and s.70 is correct. UDC will need to be particularly fastidious in its licensing accounting in order to avoid the prospect of a Judicial Review or a complaint to the Local Auditor, who can require the Council to act to rectify and remedy any errors via a statutory High Court declaration.

We are sure that such external action will not need to be contemplated if the Council is persuaded to adopt an internal accounting approach and apply a ZERO increase in licence fees on 01 April 2021. This is not creative accounting, but rather prudent financial management.

We look forward to discussions with officers continuing in a spirit of mutual collaboration and commitment.

Kind regards

-Reply to Email 3 -

Thank you for your response. I apologise for the delay in answering your email.

The fees and charges UDC sets are calculated to ensure that we move towards compliance with the mandatory DfT Standards in the shortest possible time. This poses additional challenges to the licensing authority that we must meet. This will not be easy, will take time and will involve further financial outlay.

The Council has considerable work still to do with operators and other stakeholders to ensure that we all embrace the Standards and ensure the safety of the travelling public. To do this we will unfortunately incur considerable additional, administrative costs necessary to enable the Council to start to embed greater oversight of Hackney and Private Hire drivers, vehicles and operators. All of this will lead to greater safety for our community.

The question you raise for absorbing the FTE is a political one and not for me to answer

In regards to the 1% increase. A 2% forecast for salaries inflation is believed to be appropriate given that all licensing staff could be contractually entitled to a salary increment next year (on top of any pay award) depending on performance appraisals.

Uttlesford Council faces unique challenges in that it has one of the largest fleets of licensed vehicles in the country, many of which work remotely in areas, which are many miles from Uttlesford. We are not entitled to refuse an application purely because of location. Under section 70 (A)(c) Local Government (Miscellaneous Provisions) Act 1976 the fees can be set at a level including anything that is connected with the administration and enforcement of the entire hackney carriage and private hire operation. Caselaw confirms this will include vehicle inspections, administration of vehicle records, random checks etc: see [R \(Rehman\) v Wakefield City Council - Court of Appeal on taxi licensing fees \(cholland.com\)](#) for further information regarding this.

Given the large number of vehicles located remotely from Uttlesford, it is necessary to fund additional trained officer(s), otherwise the council will not meet the standards of safety and safeguarding that the Government require..

We continue to recognise the concerns for the Trade that arose from the historic accounting error under a previous licensing regime . Lessons were learnt and moving forward UDC has and will continue to ensure that our fees and charges setting process remains open and transparent. We are confident that the current engagement process is not only legally compliant and fit for purpose but most importantly for us all at a local level remains within the spirit of any historic agreement designed to prevent such an error occurring again. Mutual respect and confidence in the ability to trust is a very important concept.

The account details as presented do provide sufficient information and clarity as to how the service costs are calculated and identify the necessary increases and why they are incurred. The written consultation process is further facilitated by face to face meeting(s) that continue to allow Trade representatives opportunity to raise specific issues with management, the licensing accountant and licensing officers relating to these figures.

To confirm the process for setting Council licensing fees and charges abides by the following.

- The Council will ensure that any charges which an applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures.
- The Council cannot use licence fees to raise revenue generally and will carry forward surplus or deficit
- The Council when implementing its licensing fees and charges over a 3 year cycle will take account on fluctuations in demand for licences and look to minimise the need to review and amend the charging structure annually.
- The Council cannot “lump” all licence fees together and each charging regime e.g. premises licences will be separately accounted for

If the Trade are of the opinion we have not met these principals the option for Judicial / Local auditor review remains, such review would generally require one of the following to have been breached

1. Illegality – failure to follow the law properly
2. Irrationality – demonstrably unreasonable as to constitute ‘irrationality’
3. Procedural impropriety/unfairness – act so unfairly that it amounts to an abuse of power

I hope this answers your questions

Thank you

Russ Way

Licensing and Compliance Manager

- Email 4 -

Dear Chairman and members of the Licensing Committee

I would like firstly to extend my thanks and appreciation to Committee chairman, Cllr Lavell, for his time in observing the meeting hosted by Mr Way on 24th November. He will certainly be aware from that meeting that there are grave concerns, voiced by the trade, about the viability of the sector in the face of impacts of the Pandemic, the statutory guidelines recommendations and political decisions made by the committee regarding the trade in Uttlesford.

These are all changes imposed on the industry over a very short period of time and have undoubtedly put businesses within Uttlesford under tremendous pressure, even before factoring in the effects of the pandemic. My experience with PSV, another asset capital intensive industry, changes are normally dealt with over 10 to 20 year lead times.

I respectfully request that the proposed increases be refused on the following grounds:

The impact of the downturn in trade as a result of the pandemic has not yet been fully felt or assessed. Additional financial burden can only exacerbate these impacts on an industry requested by the authorities to be available at very great personal risk (physical and financial). Even with the potential vaccine, it will take many months before the roll out has been completed and some-time longer again for the hoped for effectiveness to become apparent. What will become of peoples' travelling habits in the meantime is yet another unknown? Licensing is cost reclaim. There already exists a surplus (so more than reclaim). Excess spend can be reclaimed through licence fees, not before.

I believe the officers have not made their case for additional spend. A 28 day lead time to process licenses on top of highly restricted application periods for licenses does not mean the case is proven, rather it suggests to me there are issues in the processing of the licenses and their delivery. I believe it was confirmed in the meeting of the 24th the new administration software is both more costly and less efficient..yet we are expected to pay for this?

I understand Andy Mahoney has questioned the legitimacy of charging the trade for an enforcement officer employed with multi agency compliance at Stansted Airport. This is a matter of public safety at an international travel interchange (such trade as it currently does), involving vehicles and operators from many districts and should be funded centrally(Uttlesford Central Fund0, not by the Uttlesford trade.

Finally, my greatest concern about the current situation: the visibility of the detail of the licensing accounts. I have noted that for the past two years, detailed accounts have been replaced by financial summaries or abbreviated accounts. In truth these tell us very little and most importantly are not the agreement that the Licensing Committee agreed and committed to after the previous costing debacle. The full and detailed accounts being made available to the trade were seen as a critical safe guard against a repeat. The trade is now being asked again for huge licence increases whilst entering a time of massive financial uncertainty highly reminiscent of

2008 and detailed accounts are not being readily (as committed to by the licensing committee) given up. "Trust us" is not an adequate defence. Both the trade and the committee sleep walked into the previous problem. Please do not knowingly allow the problem to reoccur. Until and when the impact of the current financial and public health problems are known, please do not impose further costs on the taxi and private hire trade.

- Reply Email 4-

Thank you for your email. I apologise for the delay. I note the following comments in your email which I hope addresses your comments

- The full potential of the software has not been considered within the fees and charges. This is because it is still in test mode.
- The new enforcement officer will not be working full time at Stansted airport. They will be operating in any location in which there is perceived greater risk dictated by intelligence and complaints and engagement with stakeholders on reactive and proactive
- As you are aware the DfT Standards have been imposed on the licensing authority under statute. We have no choice but to do so and are being monitored upon our compliance.. It is important that the council works with operators and stakeholders to ensure we all work towards a common goal, namely ever greater public safety. There is no doubt that to attain those Standards there will be an additional cost on all of us.
- Legal experts have already engaged with councils en masse and have provided training on how this should be done. As we are obliged to in order to meet our own professional obligations, officers of UDC and some Committee members have engaged with that training and in order to achieve these standards the fees and charges have started to reflect this change that we will need to make next financial year.
- Accounts have been provided which show in sufficient detail the breakdown of all costs incurred and income received for Taxi licensing activities and the movement on the licensing reserve.

Kind regards

Russ

Russ Way

Licensing and Compliance Manager

Rationale for increase in Officers

Brief:

UDC Currently has

1 FTE Senior (supervisor) enforcement officer
1 FTE enforcement officer

Aside from other licensing matters to deal with they have the following to ensure compliance within the taxi/PHV trade UDC has approximately

- 100 operators
- 2500 vehicles
- 2300 drivers

Current staff

- Involved in reactive investigations
- Taxi/PHV compliance checks in UDC
- Operator checks – 2 a week

Additional Officers needed to meet DfT Standards

[Statutory & Best Practice Guidance for taxi and PHV licensing authorities \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/statutory-guidance-taxi-phv-licensing-authorities.pdf)

Additional 0.5 FTE Safeguarding officers (added to the drivers licence) - Chapter 4

Is necessary to develop Memorandum of Understanding (MOUs) with Operators and County Councils to ensure that UDC meet Gov Standards of sharing information Relationships will need to be developed with every county council that our licensed vehicles and drivers provide Regulated Services

Additional 1.0 FTE (added to Vehicle license) - Chapter 7

A further 1.0 FTE enforcement officer is needed to carry out compliance checks with (our soon to be contracted) garages and ensure the vehicles that they inspect are safe. To work with stakeholders outside of Essex & Uttlesford to ensure our licensed vehicles are appropriately licensed and so maintain the safety benefits of the licensing regime.

Agenda Item 5

Committee: Licensing and Environmental Health Committee

Date:
10 February 2021

Title: Training Day Implementation and Driver License Option

Report Author: Russell Way, Licensing and Compliance Manager

Summary

1. The purpose of this report is to inform Members of the Licensing and Environmental Health Committee of the necessary changes to Private Hire and Operator Licences and policy with effect from spring 2021

Financial Implications

2. None

Background Papers

3. Committee report 20th March 2019

Impact

- 4.

Communication/Consultation	None Needed
Community Safety	The Training Day was agreed by the Licensing Committee in 2019. Its implementation is necessary in order to meet the DfT Standards and minimise risk to our communities
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	This is a proportionate requirement to ensure licensing authorities including Uttlesford carry out their due diligence.
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

5. Uttlesford Council licensing team currently only issue one type of driver's licence, namely a combined licence. This entitles the holder to either driver a Private Hire Vehicle or Hackney Carriage.

5.1 With the introduction of an Uttlesford driver' training programme the licensing team will also now be introducing a Private Hire Licence for drivers.

5.2 When attending the training day, drivers will have an option to complete the knowledge test. Those drivers who do sit the optional Hackney carriage knowledge test and pass, will remain combined drivers and will be licensed to drive both Hackney carriages and Private Hire Vehicles.

5.3 Those drivers who do not sit the knowledge test will become solely Private Hire licensed drivers

5.4 As a result of these changes to policy the Licensing team will be introducing new driver's coloured badges to reflect this. These will be coloured to represent the licence of the driver

- Yellow - PHV drivers
- White - Combined drivers

5.5 All being well the training programme (which was agreed by committee in 2019) will be implemented by the spring of 2021. All drivers applying for their licence (either new applicants or on renewal) will need to complete and pass the course to be issued with a new licence.

5.6 To meet DfT Standards quickly the Licensing Team will also be ensuring that our current drivers will attend the course within 18 months (rather than 3 years) of the implementation of the course at UDC.

Risk Analysis

6.

Risk	Likelihood	Impact	Mitigating actions
3 = Significant risk or impact – action required	2 = Some risk or impact – action may be necessary. There is a need for the council to ensure it meet the Government standards. This includes Safeguard training for every driver licensing by the council.	3 = Significant risk or impact – action required	3 = Significant risk or impact – action required

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Agenda Item 6

Committee: Licensing & Environmental Health

Date:

Title: Enforcement Update

10 February 2021

Report Author: Jamie Livermore, Senior Licensing & Compliance Officer, 01799 510326

Item for decision:
No

Summary

1.1. This Enforcement Update report is to inform the Committee of the enforcement activities carried out by Licensing Officers during the period of 30 September 2020 and 28 January 2021.

Recommendations

2.1. It is recommended that Members note the contents of this report.

Financial Implications

3.1. There are no financial implications arising from this report.

Background Papers

4.1. None

Impact

5.1.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6.1. Proactive enforcement in particular has inevitably been limited during this period due to the restrictions from the Coronavirus (Covid-19) pandemic. However, compliance and enforcement activity has been maintained throughout and new, effective partnership working with, for example; Police forces, County Councils, DVSA and colleagues at other Licensing Authorities has been achieved and set a basis for stronger compliance and enforcement in the months and years ahead. Examples of these alongside general statistics are provided for Members within this report.

6.2. A total of 31 complaints have been received during this period.

6.3. In respect of licensed hackney carriage and private hire drivers, there have been 6 licence revocations and 8 licence suspensions. These are broken down as follows;

- 2 revocations were as a result of DVLA offences.
- 4 revocations were as a result of Police information that presented a public safety risk.
- All 6 revocations were made under the delegated authority of the Licensing Manager and Licensing & Environmental Health Committee Chair
- 2 suspensions were as a result of the driver no longer meeting the required DVLA Group 2 Medical standard.
- 6 suspensions were as a result of Medical and/or DBS certificates not being received from the driver by the required due date.
- 4 suspensions were lifted for drivers who were previously suspended before this period following receipt of Medical and/or DBS certificates.

6.4. Licensing and Environmental Health Officers have with the assistance of Essex Police conducted licensed premises visits to ensure Covid-19 compliance. This has been ongoing since the initial re-openings on 4 July 2020.

- 49 licensed premises were visited by Licensing Officers during the period of this report. These were conducted on Friday and Saturday evenings.
- There were no serious breaches identified, nor was any Police interference required. Where minor shortcomings were identified the Licensing Officers educated the premises staff on the latest guidance.

6.5. On 10 December 2020 Licensing Officers in partnership with DVSA and Essex Police colleagues conducted taxi and private hire driver and

vehicle inspections at Stansted Airport. As expected the numbers of vehicles present were extremely low, but this was a positive initiative to start up and we intend to carry out further operations in the future.

6.6. On 14 December 2020 Licensing Officers conducted Private Hire Operator inspections at Endeavour House, Stansted Airport.

- 3 Operators were visited and records were evaluated to ensure compliance with the legislation and conditions.
- Each of the 3 Operators were requested to present 3 predetermined licensed vehicles for inspection. Of those 9 vehicles, 1 was found to have a defective light, but following instruction to immediately fix the issue, evidence was presented later the same day of the light working.

6.7. On 11 December 2020 Licensing Officers participated in a large scale nighttime Essex Police operation in Chelmsford city center in partnership with Chelmsford Licensing colleagues to flag down and carry out routine compliance inspections on licensed vehicles and drivers. This became the first opportunity for Chelmsford & Uttlesford Licensing Officers to use their recent shared delegated authority powers to inspect one another's licensed drivers and vehicles. This was highly successful and we intend to expand this to other neighboring Authorities in due course in order to carry out similar operations.

- 4 Uttlesford drivers/vehicles were flagged down and inspected. No issues were identified. Any inspections on Chelmsford drivers/vehicles were recorded and passed to colleagues for their records.