

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE PANEL  
HEARING held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON  
ROAD, SAFFRON WALDEN, CB11 4ER, on FRIDAY, 30 SEPTEMBER 2022  
at 10.00 am**

Present: Councillor P Lavelle (Chair)  
Councillors G Driscoll and G Smith

Officers in attendance: A Lindsell (Democratic Services Officer), S Mahoney (Senior Licensing and Compliance Officer) and E Smith (Solicitor)

**LIC5 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

**LIC6 EXCLUSION OF PRESS AND PUBLIC**

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 part 1 of Schedule 12A of the Act.

**LIC7 REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Panel and Officers present introduced themselves to the driver.

The Senior Licensing and Compliance Officer gave a summary of his report which requested that Members determine whether the driver remains suitable to continue to hold a Private Hire/Hackney Carriage Driver's Licence.

In response to questions from Members the driver confirmed:

- His taxi badge had been suspended for a number of days as a result of the caution he had received
- He reported the incident to the carer who visited the home twenty minutes after the incident. The carer then reported the incident to the Police
- This was the first job that he had had in five years due to his previous caring commitments

The Chair explained that the Panel would retire to consider the application.

*The driver left the meeting at 10:17am and the meeting was adjourned; the Panel retired to make its decision.*

*The driver rejoined the meeting at 10:45am and the meeting reconvened.*

*The Chair read the driver the decision notice.*

*The driver left the meeting at 10:48am.*

## DECISION NOTICE

The matter before the Panel today is an application for the review of a HC/PHV driver's licence dated 8<sup>th</sup> February 2022. At the time of grant a clear enhanced DBS Certificate was produced, and in accordance with Council policy he was required to register with the automatic update service. However, the Licensing Dept was subsequently alerted by Taxiplus, the firm to whom the management of this service is outsourced, that there had been a status change on the certificate dated 28<sup>th</sup> January 2022 some ten days before the date of grant of the licence.

Officers spoke with the driver over the telephone on 16<sup>th</sup> June regarding his failure to inform the Council of this change in circumstances and at the time he could offer no explanation. He was therefore asked to apply for a new certificate and a copy of this is in the papers before us. In the interim his licence was suspended on the grounds of public safety. A further telephone conversation, in conjunction with the driver's operator, Street Cars, took place in the course of which officers were told of a domestic incident between him and his sick mother which led to him receiving a caution. He explained that he did not realise it amounted to a conviction for certain purposes as he was not fined and did not attend Court.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the background documents annexed thereto including his letter to the Licensing Team, which we have all read with great care. We have also had the opportunity of hearing from him and from the Case Officer.

The driver does not meet the requirements of the Council's Licensing policy in two respects. Para 19 (c) of Appendix D requires drivers to "Notify UDC in writing of any convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points

upon the drivers' licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice”.

Further, para 2.14 of the Suitability Policy states, “Where an applicant has a conviction for an offence of violence or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed”.

The primary function of this Committee is the protection of the travelling public. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not a driver is a fit and proper person to continue to hold a HC/PHV licence and if we consider that he is not, then our duty is clear – we should revoke the licence.

We have heard what the driver has to say and have very considerable sympathy for his predicament. Given that the index incident involves a third party potentially under a legal disability we say no more than that and we note that the driver self-reported the matter. Over the last two years we have no means of knowing how many people have found themselves in a similar position.

We also note that the driver did not realise that a caution equates to a criminal conviction for certain purposes. This is a common misconception and no excuse: however, the driver did not report the incident to the Council, and he should have done so. We strongly counsel him to read our conditions of licence.

We have considered what the driver has had to say to us. We do not regard him as being any danger to the public and note he still visits the third party involved. He is no longer responsible for their full-time care, and we understand the pathology of their condition.

We have discussed our decision in depth and have decided, unanimously, that the driver should retain his licence. However, we strongly recommend that he does read all the documents with which he has been supplied, carefully, and we do not expect, ever, to see him before us again.