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Uttlesford District Council

Chief Executive: Peter Holt

Licensing and Environmental Health Committee

Date: Tuesday, 11th July, 2023

Time: 7.00 pm

Venue: Council Chamber - Council Offices, London Road, Saffron Walden,
CB11 4ER

Chairman: Councillor A Armstrong

Members: Councillors M Ahmed, M Coletta, J Davey, A Dean, G Driscoll (Vice-Chair), J Moran, A Reeve, B Regan and M Tayler

Substitutes: Councillors S Barker, N Church, M Foley, R Freeman and J Loughlin

Public Speaking

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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

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To consider the minutes of the following meetings:

- 1st February 2023
- 23rd March 2023 (Licensing Panel)
- 26th May 2023 (Licensing Panel)
- 13th June 2023 (Licensing Panel)

3 Introduction of a Restricted Private Hire Driver Licence

34 - 40

To consider the introduction of a Restricted Private Hire Driver Licence to be issued to drivers undertaking home-to-school transportation journeys only, whilst contracted to a Local Education Authority.

4 Enforcement Update

41 - 43

To note the compliance and enforcement activities carried out by Licensing Officers during the period of 1 January 2023 to 31 May 2023.

MEETINGS AND THE PUBLIC

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Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

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Agenda Item 2

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 1 FEBRUARY 2023 at 7.00 pm

Present: Councillor P Lavelle (Chair)
Councillors S Barker, A Dean, G Driscoll, R Freeman, B Light, J Lodge, L Pepper, G Smith and M Tayler

Officers in attendance: B Ferguson (Democratic Services Manager), J Livermore (Senior Licensing and Compliance Officer), S Mahoney (Senior Licensing and Compliance Officer), E Smith (Solicitor) and R Way (Licensing and Compliance Manager)

LIC39 PUBLIC SPEAKERS

Mr Robert Sinnott addressed the Committee. A summary of his statement is appended to these minutes.

LIC40 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillor Caton with Councillor Light acted as a substitute in his place.

There were no declarations of interest.

LIC41 MINUTES OF PREVIOUS MEETINGS

The following minutes were approved as an accurate record:

- 18th October 2022
- 14th November 2022 (Licensing Panel)
- 9th January 2023 (Licensing Panel)
- 16th January 2023 (Licensing Panel)

LIC42 REFRESHMENT OF THE EVIDENTIAL TRAIL REGARDING THE COUNCIL'S ABILITY TO PROSECUTE OFFENCES UNDER PART II LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Solicitor provided an update on the steps taken to obtain up to date evidence of the Council's adoption of Part II Local Government (Miscellaneous Provisions) Act 1967.

The report was noted.

LIC43 TAXI AND PRIVATE HIRE VEHICLE FEES 2023-24

The Licensing and Compliance Manager presented the annual review of Licence Fees for Drivers, Hackney Carriage and Private Hire Vehicles and Private Hire Operators, along with the proposed fees for 2023/24.

In response to a question regarding the need to increase the fees, the Licensing and Compliance Manager explained that the legislation allowed the service to be provided on a cost recovery basis whereby fees were set with a view to recovering the costs of the issue and administration of a licence. The main driver for the proposed fee increase was staff costs, due to the flat rate Local Government pay award resulting in a disproportionately large percentage increase in the team's workforce costs.

The Chair confirmed that the increase would keep the service operating at a cost recovery level. Furthermore, the fees operated on a three-year rolling allowance to counteract the timing mismatch between when the income for Driver and Operator Licences was received and when the costs were incurred for those licences.

RESOLVED: to approve the proposed fee structure to come into effect as of 1 April 2023.

LIC44 **REVIEW OF DRIVER TRAINING COURSE**

The Senior Licensing and Compliance Officer presented a request from the Licensed Trade to remove the requirement for newly licensed Hackney Carriage and Private Hire drivers to undergo the test element of the mandatory driver safeguarding training course.

Members discussed the language element of the exam and the impact which it may have on non-English speakers. The Senior Licensing and Compliance Officer clarified that the Council's policy required assessment in both written and spoken English as required by the 2020 Dept of Transport Standards. This was assessed throughout the training course with the requirement to write answers in the exam, as opposed to multiple choice, forming part of it. The test itself was timed and cost £100, plus VAT, which covered up to three attempts. It was highlighted that if a driver were to fail the exam after four attempts, and acquired a licence from another authority, they were still permitted to drive in Uttlesford. There were some drivers who had failed the written English part of the exam, rather than the safeguarding element.

He agreed to feedback the Committee's comments to the training provider, including their request to review the wording of the exam in order to make it more accessible.

Councillor Driscoll requested for the course as a whole be reviewed, in order to make it a more pleasant experience.

RESOLVED: to retain the requirement for new hackney carriage and private hire drivers to undergo the pass or fail exam paper at the end of the mandatory driver training course.

LIC45 **REVIEW OF LICENSED VEHICLE EMISSIONS POLICY**

The Senior Licensing and Compliance Officer presented a request from the Licensed Trade to revise the Vehicle Emissions Policy in order to permit 8 passenger seat vehicles to be licensed without meeting the current Euro Emission 6 requirement.

It was confirmed that the Committee adopted the policy to replace the previous Vehicle Age policy, and this was done in line with the Council's position on air quality. Many of the 8-seater vehicles were used for Private Hire journeys and the request asked members to consider whether the Council was prepared to extend their lives to use anywhere in England.

During debate, members highlighted the importance of adopting higher standards to tackle the impact which emissions had on people's health and the planet; however, they acknowledged the financial and supply difficulties which the requirement had on drivers trying to meet it.

RESOLVED:

- To revise the existing Policy to permit 8 passenger seat vehicles to be licensed without meeting the current Euro Emission 6 requirement.
- To require all 8-passenger seat multi-person vehicles to meet or exceed Euro Emission 6 standard from 1st April 2025.

LIC46 **ENFORCEMENT UPDATE**

The Senior Licensing and Compliance Officer provided an update on the enforcement activities carried out by Licensing Officers during the period of 1st October 2022 and 31st December 2022.

In response to member questions, the following was clarified:

- It was not possible to benchmark the enforcement activities against other neighbouring authorities, however the Council did have a good reputation for overseeing the district's licensing activities.
- The NR3, National Register of Taxi and Private Hire Vehicles Licence Refusals and Revocations, had recently been changed to also include suspensions. Currently, only four Local Authorities in the country were not sign up to it.
- There was a designated member of staff who dealt with the complaints which were received by the Council. The Licensing Team received complaints about drivers from various sources which they would then triage and risk assess. If a driver was found to be at fault, then their licence would be reviewed to consider if the individual was "fit and proper" to hold it.

Councillor Driscoll requested that officers checked the number of driver licence revocations stated in the report.

The report was noted.

The Committee gave thanks to Elizabeth Smith, for the dedication and legal support which she had given to the Licensing Committee and Panels over the years.

Meeting ended at 8:23.

APPENDIX: PUBLIC SPEAKER

Mr Robert Sinnott

Mr Sinnott set out his company's position on the Euro 6 Emission policy. He was an operator who ran a relatively small fleet and one who sources his vehicles from fleet suppliers, rather than directly from vehicle manufacturers. His requests to the committee were in relation to MPVs.

He explained that MPVs were classified under EU legislations as N1 Class 2 and Class 3 Light Commercial Vehicles and they were manufactured to Euro 5 standards until August 2015. First registrations of vehicles was permitted up to 1 year after this date, which meant that the sales of Euro 5 MPVs were allowed in to 2016/17. The size of the MPV market, compared to vans and other passenger vehicles, was tiny which was important to note when considering subsequent developments. Athlon, the third largest leasing company in Europe, have stated its supply issues regarding sourcing Euro 6 vehicle to the point that they have withdrawn from the MPV market. Mr Sinnott had also had discussions with other leasing companies to source or purchase vehicles to the Euro 6 standard and has found that there has not been a cascade of vehicles into the second-hand market which has created a price bubble and operators were now paying as much for a second-hand MPV as they would a new one. Once the current emissions regime ends, these vehicles would be worth nothing as they had no further purpose, so the cost of life to a small operator was significant.

He requested that the use of Euro 5, 9 seaters be continued by those who were currently licensed by UDC, as well as new registrations, and for it to ideally run in line with Euro 6. He said that the sector was struggling with the price pressures in the second-hand car market, and that the district overall did not have an emissions problem so the impact would be relatively small.

Mr Sinnott also requested the committee consider the relicensing of older vehicles. As an example, a vehicle which was a Euro 4 or 5 and had a licence which expired after the latest emissions standards became the requirement could not be used any time after that deadline. With the current policy, the operator would then have to source a Euro 6 vehicle to fulfil their work in the final months until their license was up for renewal.

The final request, from Mr Sinnott's Fleet Management Team, was to allow testing up to two months in advance of the vehicle anniversary date of any of its compliance tests. This would allow more flexibility and efficiency.

LICENSING PANEL HEARING held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on THURSDAY, 23 MARCH 2023 at 10.00 am

Present: Councillors G Driscoll, R Freeman (Vice-Chair) and G Smith

Officers in attendance: N Coombe (Interim Legal Services Manager and Deputy Monitoring Officer), J Livermore (Senior Licensing and Compliance Officer), C Shanley-Grozavu (Democratic Services Officer) and P Wright (Licensing and Compliance Officer)

LIC47 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC48 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 part 1 of Schedule 12A of the Act.

LIC49 REVIEW OF PRIVATE HIRE DRIVER LICENCE

The Senior Licensing and Compliance Officer gave a summary of their report which requested that Members review whether the Driver was still suitable to hold a Private Hire Driver's Licence.

Prior to the meeting, it had been agreed by both the Driver and the Vice-Chair of the Committee to hear the review in the Driver's absence.

The Deputy Monitoring Officer confirmed that it was within the Panel's gift to apply the following sanctions:

- No further action
- A suspension of the licence for a prescribed period
- A revocation of the licence

In response to members questions, officers clarified that the certification for the Victim Awareness Course, appended to the report, was related to the case and that the driver had completed it within the required timeframe as outlined by the conditions of their police caution.

Furthermore, the fine referenced by the Driver in their correspondence to officers was likely to be a Victim Surcharge, which can be issued by the police as part of a caution.

Meeting adjourned at 10:09 for the Panel to retire to make their decision.

The meeting was reconvened at 10:18

DECISION NOTICE

The matter before the Panel today is the review of a Private Hire driver's licence.

We have had the opportunity of reading the officer's report on 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. We have had the opportunity of hearing from the Case Officer and have considered the terms of the Council's Licensing Policy.

The Licensing Team received an email from the Driver to advise that they had received a 'caution on their DBS' and provided a short summary of the circumstances. In response, the Licensing Officers ran a check on the DBS Update Service to confirm the change to the Drivers DBS status. In summary of the conditional caution, the Driver committed "wound/inflict grievous bodily harm without intent". The caution conditions required completion of an anger management and victim awareness course, to not commit any further offences and to pay a fine of £50. The Licensing Team are not aware of any other convictions or cautions on the Drivers record.

The Council's Driver Suitability Policy, does not specifically refer to cautions and therefore the Driver is not automatically prohibited from retaining a Private Hire Driver licence, however, the admission of the offence does naturally raise a question of suitability and as such Licensing Officers deemed it necessary for the Panel to review the licence.

We have heard from the case officer today and we have listened carefully.

Agreement to make a decision in the absence of the Driver was obtained from both himself and Chair of the Panel, prior to the meeting.

The primary function of this Committee is the protection of the public and if we are in any doubt as to whether an individual is a safe and suitable person to continue to hold a licence then our duty is clear – we should impose sanctions; whether it be to revoke the licence or suspend for a prescribed period.

The Panel considered the circumstances in which the caution took place on, including the location and the date. They believe that the Driver did create an unprovoked assault, however welcomed the fact that he notified the Council of this, a requirement of the Uttlesford Private Hire Driver licence, as well as undertaken the anger management and victim awareness course in line with the conditions of his caution. It was also noted that this was the Driver's first offence and that he was regretful of his actions.

We therefore apply a suspension to the Driver's licence for a period of two weeks, which will take effect from 19th April 2023, following the conclusion of the 21 days appeal window.

The Driver does have a right of appeal against this decision to the Magistrates Court, which must be exercised within 21 days, and they will receive a letter from the Legal Department explaining his full legal rights.

LIC50 **REVIEW OF PRIVATE HIRE DRIVER LICENCE**

The Licensing and Compliance Officer gave a summary of their report which requested that Members review whether the Driver was still suitable to hold a Private Hire Driver's Licence and Private Hire Vehicle Licence.

It was noted that the Driver's Private Hire vehicle had recently broken down, and they were in the process of applying for a new Private Hire Vehicle Licence.

A representative of the Driver addressed the Panel and asked if drivers needed to have full signage displayed on school runs, as every council had a different policy. Officers confirmed that signage should be displayed on the vehicle at all times.

The representative said that the Driver admitted to making a mistake and explained that the signage was taken off at night as taxis in their area were targeted by vandals.

Officers clarified that the policy around signage had changed approximately two years ago and before this, there were no requirements to display anything on the vehicle doors. The Driver had held their licence since 2016 in order to work on home-to-school contracts, and these were the only two offences which they had committed, both before and since the policy change. The Driver's representative confirmed that the Driver did not understand that the law had changed.

Officers explained that, in order to renew their licence, the Driver would have sat the Green Penny course last year which outlined this policy.

Meeting adjourned at 10:35 for the Panel to retire to make their decision.

The meeting was reconvened at 10:56

DECISION NOTICE

The matter before the Panel today is the review of a Private Hire Driver licence, and Private Hire Vehicle licence. It was noted that the Private Hire vehicle referred to in the report had since broken down and the Driver was currently in the process of applying for a new Private Hire Vehicle Licence from Uttlesford District Council.

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 he, the background documents annexed thereto. We have had the opportunity of hearing from the Case Officer and a representative of the applicant and have considered the terms of the Council's Licensing Policy.

Licensing Officers attended a scheduled driver and vehicle check, when they saw a Driver and their vehicle which was not displaying either the authorities' licence plate or door signs. The Driver stated that the plate must have fallen off on the journey as it had been present at the start of the day. They gave no explanation for the door signs being missing. It was explained to them that they along with the plate need to be displayed on the vehicle at all times. Email correspondence was later received from the employer of the Driver, showing that the Driver had in fact found the Licence plate and along with the door signs affixed them to his vehicle.

Licensing Officers attended another scheduled check where they saw the Driver and their Private Hire Vehicle. The vehicle was not displaying any door signs; these were eventually found in the boot of the vehicle under a lot of personal items. They had been given a magnetic backing making them easier to detach and re-affix. The internal driver identity card was not on display and was found either in the glove box or pushed down the side of the front passenger seat. The Driver explained that they removes the door signs at night to prevent them from being vandalised and that they had forgotten to put them on that morning.

The Driver met with officers and explained that they lives in a block of flats, they removed the signs to stop them from being vandalised, and that they had forgotten to reattach them. It was discussed how it had taken a while for them to find them, under all his personal items, and that it was suspected that they had not been displayed on the vehicle for a while.

Appendix J of the Council's Licensing Policy relating to the Hackney Carriage and Private Hire trades direct how proprietors/drivers will display the door signs and internal drivers badge. It states that "failure to comply with this requirement will result in the automatic suspension of the vehicle or driver licence until such time as evidence is produced that confirms that the above has been adhered to."

We have heard from the case officer and a representative of the Driver, and we have listened carefully.

The primary function of this Committee is the protection of the public and to ensure that licence proprietors are adhering to the Licensing Policies, and if we are in any doubt as to whether an individual is a safe and suitable person to continue to hold a licence then our duty is clear – we should impose sanctions; whether it be to revoke the licence or suspend for a prescribed period.

The Panel considered that this was a technical infringement on the License and the Driver was before the Panel due to it being their second offence. They noted that the displaying signage, in line with Appendix J of the Council's Licensing Policy, is a condition of the licence and it includes displaying signage at all times. They also noted that, in order to renew their Licence, the Driver had attended and completed the Green Penny Driver Training Course after this policy was implemented, and this requirement was outlined within the course content.

We therefore suspend the Driver's Private Hire Drivers' licence, for a period of four weeks, which will take effect from 19th April 2023, following the conclusion

of the 21 days appeal window. No action will be taken against the Private Hire Vehicle licence.

The Licensing Panel also requested that Officers write to the employer to request that better clarity be provided to their drivers in regard to the Council's policy of the display of signage.

The Driver does have a right of appeal against this decision to the Magistrates Court, which must be exercised within 21 days, and he will receive a letter from the Legal Department explaining his full legal rights.

LIC51 **REVIEW OF PRIVATE HIRE DRIVER LICENCE**

The Senior Licensing and Compliance Officer gave a summary of their report which requested that Members review whether the Driver was still suitable to hold a Private Hire Driver's Licence.

In response to member questions, officers confirmed that endorsements for exceeding the statutory speed limit on a public road (SP30) were active on a DVLA driving licence for three years, however, remained on a driving record for four years. When the Licensing Team previously identified the Driver as having accumulated nine points on their DVLA licence from three separate SP30 offences, he was required to undergo and pass the Council's approved driving proficiency test. The Driver then committed a further SP30 offence after completing the test which meant that their DVLA licence now showed holding 12 points, but only nine were considered "active", in line with the DVLA driving endorsement guidelines. On none of these occasions did the Driver notify the Licensing Team of the endorsements and they were instead picked up on routine driver licence checks.

The Driver addressed the Panel and said that first offence was his first SP30 in quite some time and had been during the Covid-19 pandemic. As a consequence of the pandemic, he was the only driver in his company and was doing a lot more professional driving as a result whilst his headspace was not in the right place. He explained that the two additional SP30 offences were committed in succession and he tried to toe the line as he was at risk of losing his licence.

After the pandemic, the driver said that he continued to do more professional driving due to a severe driver shortage and once again ended up in a position with nine points on his DVLA Driver's Licence. He said that he could not excuse his actions but had since taken stock as it was sobering to think that he could lose his livelihood. He had implemented further measures to avoid speeding, including setting a speed limit in his vehicle and using an app which also alerts him to speed limits.

In response to member questions, the Driver confirmed the following:

- The Driver had known that it was a requirement to self-report offences to the Council's Licensing Team but didn't think that it was something that the Council has followed up on before.
- At the time of coming out of the pandemic, he had put steps in place to avoid committing any further SP30 offences but lapsed again the next year. He then introduced additional measures after his most recent offence.
- He had undergone the National Speed Awareness Course many years ago because of the incidence outlined within the report.
- He was unaware that he had a responsibility to report any of the offences to the Traffic Commissioner in regards to any of his other licences.
- Taxi driving was his main source of income.

The Deputy Monitory Officer clarified that as of June 2023, the driver would only have three active points on his DVLA licence.

Meeting adjourned at 11:17 for the Panel to retire to make their decision.

The meeting was reconvened at 11:33

Following the decision, the driver was informed that he must return his badge and licence to the Licensing Team after the 21-day appeal window had elapsed.

DECISION NOTICE

The matter before the Panel today is the review of a Private Hire Driver licence.

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. We have had the opportunity of hearing from the Case Officer and the driver and have considered the terms of the Council's Licensing Policy.

This year automated DVLA licence checks were carried out against the Driver's licence, as part of standard procedure, and these revealed four separate offences of SP30 – Exceeding the statutory speed limit on a public road. Three offences had been identified on a previous DVLA licence check and were dealt with at the time. Section 2.23 of the Councils' Driver Suitability Policy, requires licensed drivers who accumulate nine or more points on their DVLA licence to undergo and pass the Council's approved driving proficiency test and the gave a six-week period for him to successfully complete the test. The Driver submitted the test and Licensing Officers were satisfied that no further action was necessary.

The endorsement of a further SP30 offence meant that the Driver's DVLA licence now shows 12 points, however only 9 of those are considered 'active' in line with the DVLA driving endorsement guidelines. In practice, had there been a lesser gap of approximately six weeks between the first offence and the most recent, the Driver's DVLA licence would have been subject to an automatic six-month disqualification, and in turn a revocation of his UDC Private Hire Driver

licence. As the 12 points total to slightly over the three year period requirement, this did not happen.

We have heard from the Case Officer and the Driver, and we have listened carefully.

The primary function of this Committee is the protection of the public and if we are in any doubt as to whether an individual is a safe and suitable person to continue to hold a licence then our duty is clear – we should impose sanctions; whether it be to revoke the licence or suspend for a prescribed period.

The individual is an experienced driver of more than 25 years, and currently holds various licence types including Category C to drive HGVs and Category D to operate buses. The Driver confirmed to the Panel that they were aware of the need to self-report driving offences to the Council and that it was a condition of his Uttlesford Private Hire Driver licence. The Panel were therefore extremely disappointed to learn that the Driver had failed to report any of the offences. They noted that this was not the Driver's sole speeding offence, and that they had previously completed a Speed Awareness Course as well as the Councils' approved Driving Proficiency Test due to previous offences. The Panel believed that the Driver's apparent failure to learn from his previous mistakes did not positively represent the high standards expected of a professional licensed driver.

We therefore revoke the Driver's Private Hire Drivers' licence, as we no longer consider him to be a 'fit and proper' person to hold a Private Hire Driver licence with this Authority, and in the interests of public safety. The revocation will take effect from the 19th April 2023, following the conclusion of the statutory 21 day appeal period in which the Driver is entitled to make to the Magistrates Court. They will receive a letter from the Legal Department outlining his full legal rights.

Meeting ended at 11:36

LICENSING PANEL HEARING held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on FRIDAY, 26 MAY 2023 at 1.00 pm

Present: Councillor G Driscoll (Vice-Chair)
Councillors S Barker and M Tayler

Officers in attendance: S Bartram (Licensing Support Officer), N Coombe (Interim Legal Services Manager and Deputy Monitoring Officer), S Mahoney (Licensing and Compliance Manager) and C Shanley-Grozavu (Democratic Services Officer)

LIC1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence.

Introductions were made by all present.

LIC2 APPLICATION FOR A PREMISE LICENCE - KAPPA HOUSE, BUNTENS BARN, HIGH STREET, NEWPORT

The Licensing and Compliance Manager presented the report for an application by Odysseos Ltd for a Premise License. The proposed licensable activities were as follows:

- Supply of alcohol: 11.00 – 21.00 (Tuesday, Wednesday, Sunday); 11:00 – 22:00 (Thursday, Friday, Saturday)

Mr Blatt, an objector, made his representation to the Panel. He explained that the premises and his house were both old buildings, adjoined through a thin party wall made of historic materials in most part. On his side of the party wall were his children's bedrooms and the main living room. When the premises was previously used as a co-working space, his family were able to hear the activity next door throughout the daytime and they were concerned that music and other activity from a new bistro during the evening would cause further noise nuisance and impede on the quiet enjoyment inside of their property.

In addition, the window to the front of the house was single glazed and crittal which meant that they could hear people outside and at the bus stop. Whilst this was usually for short periods, installing tables outside of the premises could result in permanent noise, which was further cause for concern, particularly if alcohol was involved.

Mr Blatt said that he was not trying to stop the premises from opening, rather he was looking to find a balance that provides a reasonable and proportionate approach to satisfy the applicants needs to run a profitable business and his families' requirements to avoid unnecessary noise and have peaceful enjoyment of their property.

The meeting adjourned between 13:14 and 13:18 due to technical difficulties.

In response to a question from Councillor Barker on parking, the objector said that historically, the convention on the street had been for cars to park on the opposite side of the road. He was concerned that customers would park directly outside of his house which could cause a safety issue as he would not have any visibility when reversing onto the road. He highlighted that the original planning permission required that parking be provided within the curtilage of the property, but this was not satisfied. Whilst parking was not a condition which could be imposed on a licence, he expected the applicant to stop parking in front of the house.

Mr Blatt continued with his representation and said that the evidential burden was on the applicant to evidence the promotion and satisfaction of the licensing objectives, but the evidential test was on the balance of probabilities and the committee must exercise any discretion in accordance with public law principles. The applicant had filed the licensing application without any prior consultation with the objector and their subsequent negotiations had failed. The application sought for the sale of alcohol for 10 hours on Tuesdays, Wednesdays and Sundays and for 11 hours on Thursdays, Fridays and Saturdays, along with the ability to hold large parties. He had offered a compromise to allow for the sale of alcohol for 9 hours on Tuesdays, Wednesdays and Sundays, and 10 hours on Thursdays, Fridays and Saturdays.

The applicant, Mrs Odysseos, made their representation to the Panel. She outlined the many years of public service which she had given to community, including 20 years working in the Public Sector, 10 years supporting Essex Police and 7 years sitting on the Essex Police, Fire and Crime Panel.

For transparency, Councillor Barker declared that she recognised the applicant as they had both sat on the Essex Police, Fire and Crime Panel, but they did not know each other outside of the meeting.

Mrs Odysseos continued with her representation and said that the target audience for Kappa House would be groups, charities and families, and she hoped for it to become a community space which supported local events. The premises was located on a road which was a mix of commercial and residential property, and both pubs in the nearby area held alcohol licences up to 23:00.

Mrs Odysseos said that she appreciated Mr Blatt's concerns and had made a number of improvements to her application which included:

- Positioning the music and serving bar away from the party wall. At the rear of the property was a dry store beside the rest of the adjoining wall.
- No standing areas available. All service would be seated.
- Private parties would be limited to 50 people, the current capacity of the premise, and would require food to be provided.
- The kitchen had been inspected by the Council's Environmental Health team who commented that it was well-equipped.

- The ventilation system was on an internal circuit so that there were no pipes to the outside of the property.
- Customers would be requested not to smoke outside of the premise.
- Customers would be encouraged to take the train or walk to the premises. Those who travel in by car would be asked to park on the opposite side of the road, via social media advertisement.
- The Licensing hours had been reduced to 11.00 - 21.00 (Tuesday, Wednesday, Sunday) and 11:00 – 22:00 (Thursday, Friday, Saturday). The bistro would not be opening after 23:00.
- Suppliers would be asked to make deliveries at convenient hours.
- The promotion of the business was food over drinking, and Challenge 25 would be imposed.
- Only background music would be played at any time

She explained that external noise was already prevalent due to both buildings' proximity to the bus stop and main road. The tables outside were intended for customers passing through, such as dog walkers, which would limit the impact on further noise.

The applicant concluded that she was willing to compromise and adapt to the community, however she also needed to be agile in the current economic conditions with some scope to be flexible about hours. Shifting licensing hours further would make the business unviable.

She said it was ignorant for Mr Blatt to suggest that her anxiety, caused from their negotiations, was mischievous.

In response to questions from the Panel, the applicant clarified the following:

- She happy for an additional condition to be impose which would restrict the disposal of waste between 21:00 and 9:00.
- A food menu would be available throughout the day and alcohol would be emphasised as an accompaniment for this.
- There was additional space as the rear of the premise which could fit approximately 10 tables. This was currently being used as a co-working space.
- The premise would receive daily deliveries of fresh produce, and a weekly one for other stock.
- The seating outside of the property would be bistro tables with two seats. The applicant felt the pavement width was adequate to still allow wheelchair and pushchair access.

Mr Blatt said that the noise during the day was accepted by residents and was different to the noise in the evening. The dominant noise in the evening would be from the premises operations.

The meeting adjourned at 13:40 and reconvened at 13:56

Meeting ended at 14:03

Decision Notice

The application before the panel today is for the grant of a Premise Licence in respect of Kappa House, Buntens Barn, High Street, Newport, CB11 3PE. The application is dated 30 March 2023 and has been made by Odysseos Ltd.

The application has sought to grant the following:

- Supply of alcohol: 11.00 – 21.00 (Tuesday, Wednesday Sunday); 11:00 – 22:00 (Thursday, Friday, Saturday)

We have had the opportunity of reading the officer's report on this case, a copy of which has been served on the applicant, the objectors, the supporters and the statutory consultees.

The original proposed licensable activities and times are set out in the application form in Appendix A. However, due to subsequent mediation with the neighbouring property, the applicant has compromised on their original requirements which are now stated in Appendix F. The proposed licensable activities is therefore for the supply of alcohol between 11:00 and 21:00 on Tuesday, Wednesday and Sunday, and between 11:00 and 22:00

A plan of the premises and photos of the exterior premises can be found in Appendix B.

The application had been advertised, as required, by way of a public notice displayed at the premises and by advertisement in a local newspaper as well as on the Council's website. One valid representation was received from Other Persons, which is contained in Appendix C. The representation referred to matters that related to the prevention of public nuisance. In addition, the Other Person raised concerns regarding the ambiguity of the proposed operations, parking, noise, smell and compliance with building regulations.

Two other representations were received, but these were not stated as official objections. The Parish Council also submitted concerns but this was outside of the consultation period and therefore not included.

Two notices of support were received, which are outlined in Appendices D and E.

Copies of the application had been served on all the statutory bodies and no objections were received. A copy of the Police's response is included in Appendix G.

In carrying out its statutory function, the Licensing Authority must promote the licensing objectives as set out in the Licensing Act 2003. These are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is no hierarchy of importance among the objectives, and all must be given equal weight.

The decisions that the Committee can make in respect of this application are to:

- Grant the application
- Modify the application by inserting conditions
- Reject the whole or part of the application

When determining an application, due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance issued in accordance with the 2003 Act. Copies of these documents are before us and our Legal Advisor has reminded us of the requirements of the statutory regime under which we operate.

The Secretary of State's Guidance provides at paragraphs 10.8 and 10.10 the following assistance for members:

10.8 *"The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions must be included that are aimed at preventing illegal working in licensed premises."*

10.10 *"The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions."*

Furthermore, if the Committee's decision is to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relevant to the representations received. The Committee should not impose conditions that duplicate the effect of existing legislation.

We have considered the application carefully and have read the documents before us, including written submissions both in support of and against the application and the additional representations from the Other Person. We have also listened carefully to all of those who have spoken before us this afternoon and remind ourselves that no objections have been received by the statutory

authorities. It was noted that concerns were raised by the Parish Council but this was outside of the consultation period.

We also note that the applicant had done their utmost to satisfy the objector and were willing to submit to the following additional conditions:

- A limit on large private functions to 3 per week
- Ambient background music only
- No patrons to use any outside tables and chairs between the hours of 20:00 and closing time on any day, except during the summer months (June - September) when this will extend to 21:00
- To display a clear and legible notice asking customers to respect neighbouring properties whilst leaving, at the main exit of the premises.
- Disposal of glass bottles will not take place between the hours of 21:00 and 08:00 on any day. (Bin collection may fall out of these hours)
- To remove the door chime on the front door which causes a noise nuisance to the neighbours.

We have heard from the applicant and from Mr Blatt, who raised a variety of matters which included the impact of noise which the operations would have on the enjoyment of their property, particularly when enhanced by the sale of alcohol.

The applicant clarified that their intention was to serve food throughout the day, with alcohol only being emphasised as an accompaniment for this.

We therefore grant this application subject to the additional conditions previously submitted by the applicant as well as the following:

1. No music to be played after the hours of 22:00
2. No disposal of any waste between 20:00 and 09:00 every day
3. Only 6 chairs be permitted outside of the premise at any time, with the appropriate licence.

All parties have a right of appeal against this decision to the Magistrates Court. This must be exercised within 21 days of the date of service of this decision notice. All parties will receive notification from the Legal Department explaining this but in the circumstances, we feel it right to add that we have given our decision anxious consideration and it is the policy of the Council to defend the decisions of this Committee. All respondents to an unsuccessful appeal are entitled to seek their costs of defending, and caselaw suggests they will receive them.

**LICENSING PANEL held at COUNCIL CHAMBER - COUNCIL OFFICES,
LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on TUESDAY, 13 JUNE
2023 at 1.00 pm**

Present: Councillor G Driscoll
Councillors S Barker and A Reeve

Officers in attendance: S Bartram (Licensing Support Officer), D Cole ((Licensing and Compliance Officer), S Mahoney (Licensing and Compliance Manager), C Shanley-Grozavu (Democratic Services Officer) and P Wright (Licensing and Compliance Officer)

Also Present: Drivers for Agenda Item 3 and 5
E Smith (Legal Representative, Birketts)

Observers: A Chapman (Licensing Support Officer), K Clifford (Assistant Director - Housing, Health and Communities) and T Cobden (Environmental Health Manager - Commercial)

LIC3 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

Councillor Reeve declared that he was a Saffron Walden Town Councillor.

Introductions were made by all.

LIC4 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 part 1 of Schedule 12A of the Act.

LIC5 DETERMINATION OF A PRIVATE HIRE DRIVERS LICENCE

The Licensing Support Officer gave a summary of her report which requested that Members determine whether the applicant was suitable to hold a Private Hire Driver's Licence.

The driver addressed the Panel and said that the criminal convictions outlined within the Officer's report were from 10 years ago when they were going through a hard time. They were a single parent of twins, however since getting full custody of their children, they had not committed any further offenses. They had applied for a Private Hire licence in order to obtain work which was more flexible around their childcare requirements.

For transparency, Councillor Barker declared that she was an Essex County Councillor for the area where the applicant resided.

In response to questions, the applicant clarified the following:

- They were currently working at the Airport around their children's school hours. By acquiring a taxi licence, they felt that they would then be able to obtain more work and to work longer hours when the children start secondary school in September.
- They had previously worked for 10 years as a buyer in a restaurant; however they had to give this up when they became a single parent as the hours were unsociable and not working around their childcare.
- A CS Gas canister and Class A drugs were found in a work van that they were driving, but the items did not belong to them. However, as they were in control of the vehicle, they were charged with possession of both.

Meeting adjourned at 13:10 for the Panel to retire to make their decision.

The meeting was reconvened at 13:29

DECISION NOTICE

The matter before the Panel today is an application for a new HC/PHV driver's licence. He is employed by a company who run a Park and Ride service for the benefit of travellers out of Stansted Airport, but they have not attended before us today or otherwise actively supported him.

This hearing is called under Part II of the Local Government (Miscellaneous Provisions) Act 1976. S 51 thereof states :

51(1) Subject to the provisions of this Part of the Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence: Provided that a district council shall not grant a licence

(a) Unless they are satisfied

(i) That the applicant is a fit and proper person to hold a driver's licence.

It is this we must decide today.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the driver and we have also seen, as has he, the background documents annexed thereto. Most important is his enhanced DBS certificate and we note that he has declared the matters set out therein in his application form. There are no new matters postdating this certificate and nor are there any entries pertaining to him on the NR3 licensing database. He also holds a clean DVLA licence.

However, the DBS certificate reveals a number of serious historic convictions.

The Driver was convicted upon a count of possessing a prohibited weapon under S5(1) Firearms Act 1968 and another of possession of a Class A drug, namely cocaine, contrary to S5(2) Misuse of Drugs Act 1971. For these offences he received a) custodial sentences of 4 months and 1 month to run concurrently, suspended for 12 months, b) he was also made subject to forfeiture orders and c) ordered to pay a victim surcharge of £80.00 and prosecution costs of £200.

Sadly he also appeared on charges of shoplifting, contrary to S1 Theft Act 1968 and resisting/obstructing a constable under S89(2) Police Act 1996. He was fined £233 and ordered to pay a further £233 in prosecution costs: he was also charged with the commission of a further offence while subject to a suspended sentence, under Sch 12 Criminal Justice Act 2003, but he received no separate penalty for this.

We have also had the opportunity of hearing from him and from the Case Officer and have read the papers before us most carefully.

The Driver told us that the offences took place at a very difficult time in his life. His ex partner had mental health problems and when the relationship ended he was left as sole carer for two young children and he needed work to fit around them.

The gas canister and drugs found in his possession and in respect of which he was convicted did not belong to him. They were in a work van and he was

convicted because he had been control of the vehicle at the material time and for that reason he was deemed to be in possession of them.

He has not been in trouble since assuming sole care of his children and hopes to work longer hours when they start secondary school in September as there is a bus they will be able to catch.

In considering this application, we are also mindful of the provisions of the Council's Suitability Policy, a copy of which is before us. Appendix A contains the relevant details, and we quote them here:

2.5 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.

2.9 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

2.10 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.

2.15 Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.18 Dishonesty

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

2.20 Drugs

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

All of these matters are regarded as serious and though more than seven years have passed since the date of the last conviction. The Driver has convictions in respect of offensive weapons, controlled drugs and dishonesty. There is also the incident with the Police Constable.

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 an applicant is a fit and proper person to hold a HC/PHV licence and if we consider that he is not, then our duty is clear – we should refuse the application.

We have listened to the Driver, however, and we are satisfied that he has kept out of trouble since 2014 and that he is determined to be a good father to his children

The decision we must make is whether he is a fit and proper person to hold an HC/PHV driver's licence and we have decided that on balance, he is. His application is granted and he will receive the necessary paperwork from the Licensing Department in due course.

LIC6 **REVIEW OF A PRIVATE HIRE DRIVER LICENCE**

The Licensing and Compliance Officer gave a summary of his report which requested that Members determine whether the driver was "Fit and Proper" to continue to hold a Private Hire Driver's Licence.

It was noted that the driver was not in attendance at the hearing, but a written statement had been submitted.

In response to questions, the Licensing and Compliance Officer clarified the following:

- The driver had not complied with Council policy twice since they received their Private Hire Driver's Licence in October 2022.
- The first incident occurred during a multiagency taxi check outside of a school when the vehicle was not displaying any council door signs. For this, and other issues, the vehicle was suspended.
- The second offence took place outside of an Adult Day Centre where the same vehicle was not displaying any door signs or their badge; however it was in the vehicle.
- The Driver was employed in by an operator licensed by Uttlesford which held a school contract with Hertfordshire County Council.

- The agencies involved during the initial spot check included the Police, several other Local Authorities and the DVSA.

Meeting adjourned at 13:39 for the Panel to retire to make their decision.

The meeting was reconvened at 13:56

DECISION NOTICE

The matter before the Panel today is for a review of HC/PHV driver's licence. He is employed by an operator licensed by the Council

We consider the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976. S 61 thereof states :

A district council may suspend or revoke a driver's licence for:

(a) That since the grant of the licence he has-

- (i) Been convicted of an offence involving dishonesty, indecency or violence: or*
- (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of the Act: or*

(b) Any other reasonable cause.

In the event of a licence being revoked or suspended a driver has the right of appeal to a Magistrates Court

The Driver has not attended before us today but has written into the Council. We have read that letter carefully. His licence is to be considered by us because of two identical breaches of condition taking place on 12th January 2023 and 25th April 2023. Both incidents were witnessed by Council officers.

The facts are as follows. On Thursday 12th January 2023 during a multiagency taxi check organised by Hertfordshire Police and attended by Mr Paul Wright an Uttlesford Licensing Compliance Officer. He was the driver of an Uttlesford licenced private hire vehicle), on which occasion the vehicle was not displaying any council door signs. For this and other issues the vehicle licence was suspended and the documentation is before us. The Driver has received copies.

On Wednesday 25th January 2023, email correspondence was received from his employer showing that door signs were now affixed to the vehicle. They included photographs and these are within our bundle.

On Tuesday 25th April 2023 Mr Wright saw the Driver again, who was driving the same Private Hire Vehicle. Once more, the vehicle was not displaying any door signs. Mr Wright issued a minor works form and advised that the signs needed to be on the vehicle at all times. Again, this document is before us.

On Friday 22nd May 2023 the Driver and Mr Wright met using Teams. The Driver said that he could not remember very much about the incident in January. He said that he remembered being spoken to in April, and that later the door signs were found in the rear of the vehicle. He also said that he kept the vehicle at his home address although it belonged to the operator, who lived nearby so was able to collect it at any time. He said that the door signs had been made magnetic, but he had not been involved in doing it.

The Driver was informed that his licence was being referred to the Licensing Committee for consideration of revocation or suspension. He was invited to add anything further to what he had already stated. Appendix J of the Council's Licensing Policy relating to the Hackney Carriage and Private Hire trades direct how proprietors/drivers will display the door signs. It is clearly illustrated and again, we have a copy before us. The requirement that licensed vehicles are clearly badged is a measure taken for the protection of the public. The Council licenses many vehicles that do not work within the geographical district of Uttlesford and it is regarded as very important that members of the public with concerns know who we are and who they should contact to report them.

Para 1.3 of this Council's Suitability policy is clear:

"If a licence holder falls short of the fit and proper standard at any time the licence should be revoked or not renewed on application to do so"

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.

The Council's Suitability Policy states that the overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. We agree. That is why we require licensed vehicles to be clearly badged and this is not an isolated occurrence.

We take this responsibility seriously. 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 person remains a fit and proper person to hold a HC/PHV licence, and if we consider that he is not, then our duty is clear – we should revoke the licence. If we do not think the failure serious enough to justify revocation, we do have power to suspend the licence.

We have read the Driver's letter, and we have read and considered the other material before us. We note he says that the door signs have now been permanently affixed to all vehicles operated by his employer and apologises for his absence: he states he has to collect disabled children from school and continuity of service is considered to be important for them. We do feel that he could have requested a deferral of this hearing and observe that generally the Council does try to accommodate such requests.

We are also mindful that this is not a single, isolated incident and that the first episode took place at a time when the Driver had only recently completed his mandatory driver training. He must have known what the Council required of him

We therefore have to consider whether the Driver remains a fit and proper person to hold an HC/PHV driver's licence; and if we do, whether his failures merit a lesser sanction than revocation.

We have concluded, since this is a repeat offence, that the Driver's licence should be suspended for a period of 21 days. This suspension will commence on 22nd July 2023 and last until 13th August 2023. We are mindful of the appeal window and that the commencement of the suspension co-incides with the

beginning of the school holiday. Since the Driver is employed upon school contract work, the children he drives will not be affected by the suspension of his licence, only him. We also recommend, but without having any power of compulsion, that he repeats the Green Penny training course.

The Driver has a right of appeal to the Magistrates Court against this sanction and this right must be exercised within 21 days of the date of our decision. That is why the suspension does not begin for more than three weeks, that is until the expiry of those 21 days, and until the conclusion of any subsequent appeal.

The Driver will receive a letter/email from the Licensing Department with a copy of our decision and explaining his appeal rights.

LIC7 **REVIEW OF A PRIVATE HIRE DRIVER LICENCE**

The Licensing and Compliance Officer gave a summary of his report which requested that Members determine whether the applicant was suitable to hold a Private Hire Driver's Licence.

It was confirmed that the Driver had held a licence since 2017 and no previous incidents or complaints had been noted.

In response to questions, the Licensing and Compliance Officer clarified that the complaint before the Panel was based on an email and recordings which had been submitted by the partner of the passenger. Officers had not had any co-operation from the passenger, despite several attempts to make contact with them.

Having reviewed the recordings, the Officer felt that the passenger was offering non-committal answers but was unable to gauge how they were feeling.

The Driver addressed the Panel and said that they could not remember when the incident took place, nor who the passenger was. The first time that they were made aware of the events was when they were suspended by their company.

They said that they were not racist and got along with the other taxi drivers as well as their customers.

They concluded by saying that they were sorry for wasting the Panel's time.

In response to questions, the Driver clarified the following:

- They were suspended for two weeks and received a final written warning from their company over the incident.
- Moving forward, they were looking to install a camera in their taxi and to also moderate their language when speaking to passengers.
- They picked up hundreds of passengers each week, so were unable to recall the specific conversation and passenger.

- The Driver could not recall a time when any passenger of theirs had exited the taxi early. They always got on with people and had never had any complaints until now.

The Driver said that they were sorry for all the work that the complaint had caused and for the time wasted.

Meeting adjourned at 14:11 for the Panel to retire to make their decision.

The meeting was reconvened at 14:42

DECISION NOTICE

The matter before the Panel today is for a review of HC/PHV driver's licence. This matter was referred to Uttlesford by officers of Chelmsford City Council following an incident on 15th February 2023.

We first consider the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976. S 51 thereof states :

51(1) Subject to the provisions of this Part of the Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence

(a) Unless they are satisfied

- (i) That the applicant is a fit and proper person to hold a driver's licence.*

This responsibility is ongoing and whether the Driver remains a fit and proper person is what we must decide today

S61 goes on to state:

A district council may suspend or revoke a driver's licence for:

(a) That since the grant of the licence he has-

- (i) Been convicted of an offence involving dishonesty, indecency or violence: or*
- (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of the Act: or*

(b) Any other reasonable cause.

In the event of a licence being revoked a driver has the right of appeal to a Magistrates Court

Para 1.3 of this Council's Suitability policy is clear:

"If a licence holder falls short of the fit and proper standard at any time the licence should be revoked or not renewed on application to do so"

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. We have listened to two recordings of the conversation between the Driver and the complainant, made by her at the time. However, the actual complaint was made by her partner, and she herself has chosen not to engage with officers regarding the matter despite the making of several approaches.

The facts of the matter are as follows. The Licensing Team received an email from Mr Daniel Winters of Chelmsford City Council on 16 February 2023, in which he explained that a complaint had been received regarding the conduct of the Driver during a journey with a fare paying female passenger on 15 February 2023. Mr Winters subsequently forwarded two voice recording attachments to Russell Way, Uttlesford District Council's former Licensing Manager. These were then passed to David Cole, Licensing and Compliance Officer at UDC.

These recordings contain a conversation between the complainant and the driver in his vehicle that she was travelling in on 15 February 2023. The Complainant began to record the conversation after the Driver used obscene language whilst speaking to her. It should be noted that the complainant is of mixed heritage herself and found the language used particularly upsetting.

The Driver can be heard during the first recording using further obscene language. During the second recording he used obscene language again when talking about his controller giving him an airport run. The complainant informed her partner, who emailed a complaint initially to Fairway taxis, who in turn informed Chelmsford City Council. The matter was then referred to UDC by Mr

Winters. We have read the emails and listened to the recordings. They are not pleasant.

We have also had the opportunity of hearing from the Driver and from the Case Officer.

The Driver told us that he did not really remember the incident and that his operator had subjected him to a two week disciplinary suspension at the end of which he was given a final written warning.

We have listened to the recordings and we find the language used unacceptable. We cannot let this pass; however, we note that the Driver has attended before us today, was apologetic and has a six year driving history with the Council. We also note that the complainant has not engaged with officers, despite a number of requests to do so.

In reaching our decision, we are mindful of the provisions of the Council's Suitability Policy, a copy of which is before us. It states that the overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.

We agree.

Appendix A is more specific, and we quote the relevant provisions here:

2.2 It is important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (drivers, vehicle and operators) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.

2.7 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person....

2.9 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may

also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

We take this responsibility seriously. 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 person remains a fit and proper person 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 listened to the Driver, and we have read and considered the other material before us. We also note that he was subject to a disciplinary procedure by his employer. This was a two week suspension and we gather he has suffered financial hardship as a result thereof. We consider, given his age, that this is punishment enough. He also received a final written warning which is a serious matter. He states he enjoys his work and gets on with customers.

He has suggested the installation of a camcorder in the car, and provided it is GDPR compliant we think this is an excellent idea. He must moderate his language in the future, and we suspect his employer have said the same thing

We have carefully considered whether the Driver remains a fit and proper person to hold an HC/PHV driver's licence and by the slightest of margins we have decided he may retain his licence. However, we emphasise that behaviour of the kind which brought him before us today is never acceptable and we stress it must never occur again. The Driver must appreciate that as with his employer, he is on his final chance with the Council and we do not expect to see him before us ever again.

Meeting ended 14:53

Agenda Item 3

Committee: Licensing and Environmental Health

Date: 11 July 2023

Title: Private Hire Licensing – Introduction of a Restricted Private Hire Driver Licence

Report Author: Steve Mahoney, Licensing and Compliance Manager, 01799 510326

Summary

1. This report focuses on the introduction of a new type of Private Hire Driver (PHD) licence, identifiable as a restricted PHD licence issued to drivers undertaking home-to-school transportation journeys only, whilst contracted to a Local Education Authority (LEA).
2. Many LEA's are struggling to fulfil their home-to-school transportation obligations and this includes Essex County Council (ECC). Therefore introducing this type of licence could help to attract more drivers into the trade, supporting the LEA to deliver this valuable service
3. This licence type has been proposed to ECC as the local LEA who are in full support of the Council introducing this. Additionally, existing Private Hire Operators within the district have approached the Council about their desire to see this type of licence introduced
4. Should the Committee agree to introduce this licence, applicants for this type of PHD licence would be required to undertake a bespoke safeguarding Council Test and not the current one run by Green Penny, and all other requirements placed upon them to demonstrate that they are "Fit and Proper Persons" to hold a licence remains consistent with the Council's existing policies and conditions.

Recommendations

5. To agree the introduction of restricted Private Hire Driver licenses as an option available for the purposes of LEA approved home-to-school transportation only.
6. To agree that this Licence type is available from 1 August 2023.
7. To delegate authority to the Licensing and Compliance Manager, in conjunction with the Chair of Licensing and Environmental Health Committee, to make minor amendments to the existing Hackney Carriage and Private Hire Licensing Policy 10 May 2021, and Conditions of Licence if amendments are deemed necessary.
8. To note why the option of a restricted PHD licence has many benefits, including to support the LEA with their school transportation obligations.

Financial Implications

9. There are no significant changes to the cost of introducing this licence type to either the applicant or the Council. The fee for applying for a PHD licence and for the Council to administer is £226. A normal PHD licence would require the full taxi/safeguarding course with a Knowledge Test for dual badge holders as well, but as mentioned before, this test is not necessary for a restricted PHD licence and they will take a shortened bespoke safeguarding course. There is likely to be a new colour of badge printed for a restricted PHD licence, but again this cost is factored into the £226 upon issue.

	Current year	2023/24
Revenue	Met within existing budgets	Met within proposed budgets
Capital	None	None

Background Papers

10. None

Impact

11.

Communication/Consultation	N/A
Community Safety	N/A
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	N/A
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

12. Uttlesford District Council as the Licensing Authority are responsible for licensing Hackney Carriage and Private Hire drivers.

13. Once an applicant is deemed “Fit and Proper”, applicants can choose to hold one of two types of driver licence:

- Private Hire Driver Licence (PHD)
- Dual (Hackney Carriage + Private Hire) Driver Licence (DUAL)

14. However, the Council has recognised that a third option could be made available to applicants:

- Private Hire Driver Licence: Home-to-School Transportation Only (LEA approved contracts)

15. Recent communications via the Institute of Licensing identified the issues arising regarding the increase in demand for home-to-school transport coupled with a decline in the number of licensed drivers being available:

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- "The SEND home to school transport market equates to around £900m of upper tier local authority spending per annum. The demand on the service has increased by 100% in the past 8 years and is set to increase further. The majority of that spend is procured from each local authorities local hackney and private hire trade, who, under contract, provide a valuable service to some of the most vulnerable members of our society.

Many local authorities are struggling to fulfil their current legal obligations to provide home to school transport and they are very concerned as to how they will meet the increased future demand.

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- It is recognised that thousands of licensed drivers have left the UK's hackney & private hire trade in the past few years and these numbers are unlikely to increase back to where they were previously.

We are calling on local licensing authorities to seriously consider the introduction of restricted drivers licences, or school only drivers licenses. This is just one way that licensing bodies could assist in attracting drivers to this type of work and assisting to deliver this valuable service. We would also ask that licensing teams are appropriately resourced, to ensure that those drivers who need to remain hackney carriage and or private hire can be issued a license in good time"

Jason Salter - ATCO Chair

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16. After speaking with representatives at ECC about the issues highlighted above, their response was as follows:

“Locally, Essex County Council has seen a growth in demand for home-to-school transport over the last five years; this is expected to continue to increase each year based on current trends.

A lot of the current demand is met by the external taxi market and there is genuine recognition of the need to work more closely with the market to support sustainable delivery of services.

Like many authorities, Essex has experienced a significant decline in the number of licensed drivers; this has led in some cases to providers handing back contracts due to lack of availability.

As part of the Assisted Transport Transformation Program, Essex County Council is looking at a number of opportunities to review how it’s home-to-school services operate and deliver services.”

17. Consequentially, ECC have positively supported the proposal to introduce a restricted PHD licence.

What is a restricted Private Hire Driver Licence?

18. A restricted PHD licence is a licence issued by the Council for the sole purpose of a driver undertaking home-to-school transportation, which has been specifically contracted to them by the LEA.
19. The restriction imposes a condition that only this type of private hire work can be undertaken, no other wider private hire work can be undertaken.
20. As a result, an applicant will not be required to undertake the current Council training test as part of the application process as this would not be deemed necessary but would take a bespoke safeguarding course and, applicants would still be required to meet all other requirements placed upon them in order to demonstrate that they are “Fit and Proper Persons” to hold a licence, remaining consistent with the Councils existing policies and conditions.
21. Removing unnecessary requirements will have the benefit of speeding up the application process for applicants.
22. The Council has also been approached by existing Private Hire Operators licensed within the district about their desire to see this type of licence introduced.

Have other Council’s introduced restricted licences?

23. There are other Councils across the country who have introduced restricted PHD licences for these same purposes.
24. Licensing colleagues at Southampton City Council and Oldham Council have consulted’ These same colleagues presented on this topic at the Institute of Licensing National Conference in November 2022 calling for more Councils to introduce this type of licence given the benefits and value they can offer. Blaby council have also introduced a restricted PHD licence

25. Leading legal professionals such as James Button, Principal Solicitor at James Button & Co Solicitors also support and endorse the introduction of restricted PHD licences. Mr Button led the presentation at the Institute of Licensing National Conference.

Proposal

26. For the Committee to agree the introduction of restricted Private Hire Driver licences as an option – available for the purposes of LEA approved home- to-school transportation only.

27. For the Committee to agree that this Licence type is available from 1st August 2023.

28. To delegate authority to the Licensing Manager in conjunction with the Chairman of Licensing Committee, to make minor amendments to the existing Hackney Carriage and Private Hire Licensing Policy 10 May 2021, and Conditions of Licence if amendments are deemed necessary.

Risk Analysis

29.

Risk	Mitigating actions
Current risk to ECC as the LEA not being able to meet the demands for their home-to-school obligations as a result of increase in demand and driver shortages within the Taxi/PH industry	Introducing a restricted PHD licence may help to increase the number of drivers licensed to undertake this specific type of work
Applicants applying for restricted PHD licences to navigate/avoid the requirements of a full taxi/safeguarding Council council Test	<p>All applicants applying for a restricted PHD licence will need to demonstrate that they have approved contracts with the LEA in place prior to grant of a licence. A Private Hire Operator can also provide this evidence on behalf of a specific applicant.</p> <p>Any driver or operator found to be driving / operating outside of the restricted licence conditions will be in breach of their licence.</p> <p>Appropriate enforcement action will be taken including the immediate suspension or revocation of a licence.</p>

<p>Drivers issued with a restricted licence who then undertaking other private hire work.</p>	<p>Any driver found to be breaching the condition of their licence in relation to home-to-school transport is at risk of having their licence immediately suspended or revoked.</p> <p>Should a driver wish to undertake other private hire work after being issued a restricted PHD licence, a full taxi/safeguarding course would need to be taken and driver Knowledge Test for a dual licence will need to be passed before a standard PHD or dual licence is issued to them</p>
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Passenger Numbers

In the main, Hackney carriage and Private Hire vehicles and drivers are used for transport into Special Needs & Disability (SEND) Establishments throughout Essex and beyond. The number of passengers travelling is constantly increasing along with an increase in the complexity of requirements. Passenger numbers can fluctuate throughout the school year – it is not the case that we tender for September and that remains static until the following July. Passengers are constantly added throughout the year and needs change, so we are often asking providers to add additional vehicles and staff to existing contracts.

The table below shows the current numbers travelling and the projected figures up to 2025. We have to apply caveats to the June 2020 – 2022 figures which have been heavily impacted by the pandemic. Therefore, using the % increase seen over the last 12 months to project the next 2 years may not necessarily reflect the true situation. We will only really understand the true position in a year's time as we better understand the true impact of the pandemic on SEND students overall. We do know though, that the figures will continue to increase as SEND school provision increases and more homes are built.

Month/Year	Jun-19	Jun-20	Jun-21	Jun-22	Jun-23	Jun-24	Jun-25
SEND students on hired transport	2459	2515	2567	2724	2902	3090	3290

Driver Training

Essex County Council (ECC) is currently reviewing the training package for our Passenger Assistants (PA) with a view to making the training more robust and certificated. The training will be developed by education and training specialists and will also give PAs the opportunity to further develop any other training needs they have. The aim of this is to make the role more attractive to individuals and to improve the timeframe around current training requirements for our most complex passengers. Some elements of this training can also be extended to drivers working under a (potentially) restricted licence along with basic training around autism awareness & communication skills. ECC are happy to contribute to a training package for education transport drivers with input from our SEND colleagues.

Mobilisation for September

Providers have regularly raised the issue with ECC that the licensing process is slow, restrictive and not relevant to those drivers who are only interested and employed for education transport services. Existing processes have impacted on mobilisation for September often resulting in students missing out on transport for some time if drivers cannot get through the licensing requirements quickly. It is appreciated that there are requirements to be met in terms of training, suitability, safeguarding etc. If this could be speeded up for education transport drivers and the training adjusted to meet specific requirements for this type of transport, the impact on providers and passengers would be instantly felt. Therefore ECC support this proposal of a restrictive licence to positively influence and area of the passenger transport market which is currently struggling and where demand is increasing. We will support Uttlesford if this is to be piloted with a view to extending wider in Essex if successful.

Committee: Licensing & Environmental Health

Date:

Title: Enforcement Update

11 July 2023

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

Summary

1. This Enforcement Update report is to inform the Committee of the compliance and enforcement activities carried out by Licensing Officers during the period of 1 January 2023 to 31 May 2023.

Recommendations

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

Financial Implications

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

Background Papers

4. None

Impact

- 5.

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. This report outlines the statistics and general activities of the compliance and enforcement team during the latest period of the 1 January 2023 to 31 May 2023.
7. On the 30 March, 5 Licensing Officers from UDC attended a 'taxi tout' operation at Heathrow Airport in partnership with TfL and Met Police colleagues. The operation commenced at 9am and began with a briefing on the plan of action and how any suspected touts were identified and dealt with. The role of UDC Officers was on this occasion to shadow and gain an understanding of how such operations are conducted, with the intention of mirroring similar practice at Stansted Airport. Whilst a long day, it was productive and Officers gained the understanding that they were hoping for.
8. This led to UDC's own operation on the 6th April in which Licensing Officers worked in collaboration with the Stansted Airport Policing unit. Whilst there was no action that resulted in any further formal action, the team were able to disrupt a number of touts from carrying out any unlicensed activity. The majority of UDC's licensed vehicles carry out home to school contract work, but during the impending school summer holidays the team aim to dedicate time to carrying out an increased number of airport tout operations, the results of which will be shared in the next enforcement update report.
9. Visits were made to 26 different education sites across Essex, Suffolk, Norfolk, Bedfordshire and Hertfordshire, and a total of 74 checks were made on both vehicles and drivers. Of those, 21 issues were identified though none warranted any immediate action.
10. 8 of UDC's licensed Operators have had inspections carried out where booking records were checked for compliance with the Council's Licensing Policy. All were found to be satisfactory.
11. With regards to licensed premises, there have been 6 Pubwatch meetings during this period including at Saffron Walden, Great Dunmow and Stansted Mountfitchet. The meetings have allowed for dialogue between premises, the Licensing Authority, Essex Police and UDC's safeguarding representative, and all have engaged positively. The rollout of the DISC phone app remains in the jurisdiction of the Police Licensing Team, though progress continues and it is expected that all three Pubwatch schemes will have full access before the end of the summer months.
12. In respect of licensed hackney carriage and private hire drivers, there have been 0 licence revocations and 45 licence suspensions. These are broken down as follows;
 - Of the 45 suspensions, 36 were due to not subscribing as required to the DBS Update Service, 2 were due to medical conditions which meant they may not have complied with Group 2 DLVA medical standards, 1 had not taken the driver training course by the required deadline, 1 had failed their driver training

course, and 1 was as a result of new information on their DBS certificate. Lastly, 2 drivers were issued with suspensions by the Licensing Panel.

13. In respect of licensed hackney carriage and private hire vehicles, there have been 73 licence suspensions.

- 56 vehicles were suspended following either the failure of their compliance tests or having had not taken a compliance test by the required deadline, and 12 suspensions were issued following being involved in accidents and the associated damage, and 5 were due to the failure to provide proof of relevant insurance certificates by the required deadline.

14. A total of 30 complaints have been received during this period. These are broken down as follows;

- 20 complaints relating to drivers. The majority of these were found to be unsubstantiated, and those which were resulted in minor action dealt with at Officer level.
- 2 complaints related to vehicles, both of which were due to licence plates allegedly not being displayed correctly.
- 2 complaints related to Operators. Neither of these required further formal action.
- 2 complaints relating to licensed premises. 1 was with regard to a noise issue but this was resolved following a visit and advice given to the premises supervisor. 1 was with regards to the lack of a pavement permit, which resulted in a report being made to the Essex County Highway department.
- 4 complaints related to alleged unlicensed activities. All but one have been resolved internally by Officers, with the one remaining being a case of an unlicensed driver, where the circumstances warranted no more than an official warning letter.