

LICENCING PANEL HEARING: LICENCING AND ENVIRONMENTAL HEALTH COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY 18th MAY 2022 at 10:00am

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

Officers in attendance: K James (Licencing and Support Officer), A Lindsell (Democratic Services Officer), E Smith (Solicitor) and P Wright (Licencing and Compliance Officer)

Also present: The driver in relation to agenda item LIC47
E Filby (Green Penny representative)
The driver in relation to agenda item LIC49
The driver in relation to agenda item LIC50
Councillor G Driscoll (observing), K Jenkins (Licensing Officer – observing) and S Nemeth (Licensing Officer – observing)

Remote attendance: The driver in relation to agenda item LIC51
D Cole (Licencing and Compliance Officer) and J Livermore (Senior Licencing and Compliance Officer)

LIC45 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC46 EXCLUSION OF THE 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.

LIC47 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE APPLICATION

The Panel and Officers present introduced themselves to the driver.

The Solicitor clarified that Councillor Driscoll was attending the meeting for training purposes and would not participate in the meeting.

The Licensing Support Officer gave a summary of their report which requested that Members determine whether the applicant is considered 'fit and proper' to be granted a Private Hire Driver licence with this Authority.

In response to questions from Members the driver confirmed:

- That they were fully rehabilitated following serving their prison sentence for theft in 1983 and have been in no subsequent trouble with the Police.

- They have a family and were retiring next month as a scaffolding driver. The provision of this licence would enable them to boost their pension with a role ferrying disabled children to school.
- They regretted their actions of nearly forty years ago, and mitigated their actions confirming that they had left school with no qualifications and that their father had passed away when they were young, leaving them lacking in parental guidance.

The driver left the meeting at 10:15am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 10:25am and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 10:26am.

DECISION NOTICE

The matter before the Panel today is an application for the grant of a new HC/PHV driver's licence. If successful the applicant has an offer of employment with Reacher's Cars.

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 the applicant, the background documents annexed thereto and we have had the opportunity of hearing from the Case Officer and from the applicant.

Briefly, the enhanced DBS certificate submitted as part of the licence application discloses a number of convictions for offences of theft, and obtaining property by deception in 1983, for which the driver served a custodial sentence. These convictions are nearly forty years old, but unfortunately, the applicant failed to declare this information on their application form. The Rehabilitation of Offenders regime does not apply to the licensing of HC/PHV drivers. Question 6 of the UDC application form clearly asks "Do you have any spent convictions?" the box ticked is "No" (copy attached). We are entitled to take into account spent matters.

Clause 2.5 of the Council's Driver Conditions policy states as follows:-

"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.”

We have heard from the Case Officer and from the applicant.

However, 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 they are not, then our duty is clear – we should refuse the application.

We have heard what the applicant has had to say. They told us that the convictions were nearly forty years ago and since then they have settled down and raised a family. They have been in employment in the construction industry ever since, retires in June and would like to supplement their pension and do their bit for the community. The applicant expressed regret for what had happened and said they had not been in trouble since. The applicant appears to be a fully rehabilitated person, and we are therefore prepared to grant the driver a licence.

He will receive the necessary paperwork in due course.

LIC48 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE APPLICATION**

The driver did not attend the meeting.

The Senior Compliance and Licensing Officer gave a summary of their report which requested that Members determine whether the applicant is considered 'fit and proper' to be granted a Private Hire Driver licence with this Authority.

The Senior Compliance and Licensing Officer confirmed that the Green Penny training was mandatory.

A member of Green Penny's staff also attended via Zoom and confirmed the accuracy of the statement contained within the documents pack.

The meeting was adjourned at 10:36am, the Panel retired to make its decision.

At 10:49am the meeting reconvened.

The Chair read the decision notice.

DECISION NOTICE

The matter before the Panel today is an application for a new HC/PHV driver's licence by the applicant. The applicant's previous licence was dated 24th May 2019 and expired on 30th April 2022. The applicant is therefore currently unlicensed and we are determining this application upon that basis. The applicant has not appeared before us today and has not responded to communications from Licensing Officers. We have also heard from the representative of Green Penny via Zoom.

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 the applicant, the background documents annexed thereto. We have also had the opportunity of hearing from the Licensing Officer, and from Green Penny, and have read the papers before us most carefully.

The facts of the case are that as part of the licence renewal process, the applicant had booked onto and attended a Green Penny driver training course on the 26 April 2022. This is a mandatory requirement on renewals. However, the Licensing Authority was subsequently contacted by Green Penny staff who advised that the applicant did not complete the course as the applicant was asked by the tutor to leave during the test. The email which contains the tutor's statement is before us, and states that the applicant was found to be disruptive to other attendees and made attempts to fraudulently complete the test.

The applicant is here because of the latter. Cheating in tests and examinations goes to probity, particularly when it leads to the obtaining of an advantage, in this case the renewal of a drivers' licence. Any instance of dishonesty brings into question the 'fit and proper' status of an applicant and this Committee is charged with the determination on whether the applicant should be granted a Private Hire Driver licence or have their application refused.

We note that following the full Licencing and Environmental Health Committee decision of 16 November 2021, the applicant would have until the 30 October 2022 to successfully complete the Green Penny driver training course as the

applicant was an existing licence holder given a six month deferral period. All other application requirements have been completed, and we cannot prevent the applicant from reapplying to do the course. All we can do is provide Green Penny with a copy of our decision and recommend they implement special measures, including sitting the test subject to individual invigilation, in respect of the applicant.

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

We have not heard from the applicant. The Senior Compliance and Licensing Officer has told us that the applicant has evaded his attempts to contact them and Green Penny tell us that the applicant behaved in a disruptive fashion, which impacts upon the other candidates upon the course. This is not acceptable and cheating in exams is dishonest. We repeat, this was an incident of dishonesty committed with a view to gain. A dishonest job application is specifically included within the offence of obtaining a pecuniary advantage by deception and most people would regard cheating in a test in a similar light. Had the applicant been a disabled person as defined by the Equality Act then they might have been entitled to the making of reason adjustments, and the test itself is calibrated to the candidate's understanding of English. There can be no excuse and we do not consider the applicant to be a fit and proper person to hold an Uttlesford licence.

Accordingly we refuse this application. The applicant has a right of appeal to the Magistrates Court which must be exercised within 21 days. The applicant will receive a letter from the Legal Department explaining the position.

LIC49 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Panel and Officers present introduced themselves to the driver.

The Licensing and Compliance Officer gave a summary of the report which requested that Members determine whether the applicant is considered 'fit and proper' to continue holding their licence.

The driver confirmed;

- They loved their job and had a great rapport with the children they transport and their parents.
- They were sincere in their apologies and promised that the error would not be repeated.
- They wanted to continue driving to provide continuity for the children they transport to school, some of whom have disabilities and benefit particularly from continuity of care.

In response to questions from Members the driver acknowledged that the children in the car or on the crossing could have been injured due to their actions.

The driver could not provide any reason for their driving errors.

The driver left the meeting at 11:14am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 11:35am and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 11:40am.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence held by the driver. The driver is employed by 24 x & Limited on the Home to School Transport side of the business and we understand they are currently suspended from their duties and a decision regarding their future will be made following our decision today. 24 x 7 Ltd are not here today in support of the driver. The driver has appeared before us today and we have listened carefully to what they have had to say to us.

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 the driver, the background documents annexed thereto and viewed the video footage provided by the complainant together with the workplace disciplinary report subsequently prepared by 24 x 7. We have also had the opportunity of hearing from another Licensing Officer, the case officer being unavailable due to technical issues, and have read the papers before us most carefully.

The facts of the case are that on the 17 March 2022, the Uttlesford Licensing

Team were in receipt of a complaint from a member of the public regarding an incident that had occurred earlier the same day. The complainant alleged that the driver of vehicle registration EU71 AXX was driving “aggressively” on a pelican crossing where school children were crossing while on a red light in Histon, Cambridgeshire. A 49 second video clip of the incident was supplied by the complainant, and we have viewed this carefully.

Licensing Officers contacted the vehicle proprietor, 24x7 Ltd, who identified the driver. 24x7 had already asked the driver for a statement of the events and this is also before us. The video footage appears to show the vehicle intermittently moving forwards while young pedestrians and cyclists were attempting to cross the road at the red light, putting them at risk of harm. We note that the reaction from at least two of the pedestrians appears to show their concern at the vehicle’s movement. This would seem to contradict the driver’s statement to their employer in which they refer to the vehicle being “stationary”.

Once 24x7 were provided with the video footage, they confirmed to the Licensing Team that they had decided to suspend the driver with immediate effect. That workplace suspension was subsequently rescinded. An interview was held between Licensing Officers and the driver on the 1 April 2022. The notes of this are before us, and it was explained that while being ‘stuck’ on the crossing was beyond the driver’s control, moving the vehicle forwards while pedestrians were crossing immediately in front of it was unacceptable and below the standards expected of a professional licensed driver. The driver recognized this and apologised to officers.

We have listened to what the driver has had to say and have viewed the video footage. The driver was patently distressed, and we recognise that the children they drive need continuity and routine. However, we consider the video conclusive. This is not an acceptable standard for a professional driver: The driver should not have put themselves and their passengers into this position and nor could they extricate herself from it. The driver failed to anticipate the impact their behaviour might have on the children on the crossing and in the car, and in answer to our questions the driver accepted that in the worst-case scenario they could have injured a child. The video does not support the

driver`s version of events: they were driving aggressively, and this is never acceptable. In a professional driver, undertaking a fully regulated activity it is even less acceptable.

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 the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should revoke the licence.

This was an incident of aggressive driving which took place in the course of the driver`s employment as a school contract driver, which is a fully regulated activity under the Safeguarding Vulnerable Groups Act and there were child passengers in the car. It was captured on video and there is no excuse. This was unwarranted misbehaviour in the course of employment, there were children in the car, and others on the crossing, who were, we think, put into genuine fear of harm. Sadly, we do not consider the driver to be a fit and proper, ie safe and suitable, person to undertake work of this kind.

Accordingly we revoke the driver`s licence and we do so with immediate effect on the grounds of public safety. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and ordinarily the licence would remain in being pending the determination of such an appeal. However, in this case we consider the driver poses an unacceptable risk, which is why we have taken the decision we have and they do not have this period of grace. They will receive a letter from the Legal Department explaining the position.

LIC50 **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 their report which requested that Members determine whether the driver is considered `fit and proper` to continue holding their licence.

The driver apologised for their actions.

The driver confirmed:

- They received an urgent call from relatives in Bangladesh regarding their elderly infirm parents who were unwell with covid.
- They have no qualifications and their partner was unwell, could not work and was dependent on the driver`s income.
- They drew Member`s attention to their previously clean driving license and noted their forty two years in England with no convictions.

In response to questions from the Chair the driver confirmed that they answered the phone whilst in a queue approaching a roundabout. They told the caller they would call them back, hung up and called them back once they had parked their vehicle.

The driver left the meeting at 11:52am and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 12:21pm and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 12:27pm.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver`s licence No PH/HC2343 held by the driver since October 2017. They drive for Happicabs and has done so for all of the time they have been licensed with the Council. They have provided a factual reference for us, which we have read carefully, but they have not attended before us today or otherwise actively supported the driver.

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 the driver, the background documents annexed thereto. We have also had the opportunity of hearing from the driver and from the Case Officer and have read the papers before us most carefully.

On 28 March 2022 the driver advised the Licensing Department by email that they had received 6 points on their licence for an offence committed in 2021. The driver explained that they had been out of the UK since January and had only returned on 25 March 2022. On 29 March they further explained that the 6 point endorsement was because they had been handling their phone whilst driving.

A check of the driver's DVLA licence which was carried out on 4 April 2022 showed a conviction for a CU80 offence dated 11 February 2022 for an offence committed on 20 June 2021. When asked to explain the length of time between the offence and the conviction the driver said that they had made an on-line plea and had first received a response on 16 February. The driver informed the Licensing Department about the points when they returned to the UK at the end of March.

Point 2.27 of the 'Policy on deciding the suitability of applicants and licensees in the hackney and private hire trades' states

'Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later'.

Furthermore point 2.41 of the policy states,

*'As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**'.*

On 30 March the driver was advised by email that their licence would be referred to Committee to consider possible suspension or revocation as they no longer met the suitability standards. They were invited to submit a statement explaining what had happened and why they felt they were still a 'fit and proper person' to hold a licence. The driver replied by email on 4 April in which they explained that their elderly parents, who have severe health issues, tested positive for Covid and that they had received a call from their brother informing them that their father had been taken into A&E.

The driver said that they answered their phone via loudspeaker and was caught by a camera on New Street in Chelmsford. They received a letter a couple of weeks afterwards and accepted that they had made a mistake, but felt they had no choice because of their concern for their father at the time. The driver was

asked whether they had a hands free system or whether they picked up the phone to answer and then put the phone down once they had activated the loud speaker. The driver explained in emails directed to the Licensing Department that they were stationary at traffic lights when the phone rang, they picked up the phone, put it on loudspeaker, then put the phone down. The driver accepted that they were guilty of the offence and confirmed their identity when they received the Notice of Intended Prosecution.

The driver no longer meets the suitability standards for licensed drivers. The driver accepts that they picked up their phone but realises that was a mistake and says that they only did it because of their concern over their parents' health issues at the time. The call was from Bangladesh. The driver is the only member of his household currently working and supports himself and their partner. Should they lose their licence they will be unemployed and possibly will face eviction from their home. We are sorry to hear this but hardship to the driver is not something we are required to take into account – our role is to ensure members of the public are safe when travelling in licensed vehicles.

The driver has appeared before us today and was extremely apologetic. The driver knew that they had done wrong but the story they had told us today is not the same one volunteered to Licensing Officers by email. The driver told us that they were stationary but in a traffic queue not a red light. That means they were not stationary. The driver then admitted they had been closely proximate to a layby into which they pulled over and then they returned to call. The driver has told us the call was made from Bangladesh, but we attach no weight to this.

There are two major concerns here. The first is that some crucial elements of the driver's story have changed: they initially told officers they were stationary at a red traffic light, they now tell this Panel that they were in a traffic queue. A queue may be moving very slowly but it is still moving and using a mobile phone in moving traffic is a very serious matter. The driver tells us they then pulled off the road and returned the call – why did they not do that from the start?

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 continue to hold a HC/PHV licence and if we consider that if they are not, then our duty is clear – we should revoke the licence.

The handling of a mobile phone while a vehicle is in motion is regarded as a serious matter in this country. Parliament recently substantially increased the penalties for offences of this nature and the forthcoming changes were given considerable attention, including an advertising campaign, in the media. We have heard what the driver has to say but hardship to the driver is not something we may take into account. They used a mobile phone in a moving vehicle, and together these actions make up the elements of the criminal offence to which they pleaded guilty.

We therefore have to consider whether the driver remains a fit and proper person to hold an HC/PHV driver's licence and we have to conclude that they do not. This was a moving traffic offence which is taken very seriously by the legislature, and the inconsistency between their two versions of events also goes to probity. We realise the hardship our decision may cause but nevertheless, we revoke the driver's licence.

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. The driver will receive a letter/email from the Legal Department explaining this.

LIC51 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Panel and Officers present introduced themselves to the driver.

The Licensing and Compliance Officer gave a summary of their report which requested that Members determine whether the driver is considered 'fit and proper' to continue holding their licence.

The driver apologised for their lack of attention to detail.

The driver confirmed:

- The tracking issue highlighted in September was an advisory, which they had resolved in a timely manner.
- They regularly check the tread on their tyres, and that the tyres visually looked adequate.

- They are responsible for the maintenance of the vehicle.
- They weren't aware that they could check the inner edge of the tyre by turning the steering wheel whilst stationary to view.

The Licensing and Compliance Officer confirmed that it was possible that the tread on the tyres were adequate, it was the inner edge of the tyre that was damaged.

The driver left the meeting at 12:41pm and the meeting was adjourned; the Panel retired to make its decision.

The driver rejoined the meeting at 12:51pm and the meeting reconvened.

The Chair read the driver the decision notice.

The driver left the meeting at 12:58pm.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence no PH/HC 1884 held by the driver and due to expire on 30th November of this year. They are a self employed driver and the owner of a Mercedes E220 hackney carriage vehicle registration number E2 SRK and licence plate number HCV 062.

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 the driver, the background documents annexed thereto including the inspection history of their car. We have also had the opportunity of hearing from the Licensing Officer and have read the papers before us most carefully. The driver has also appeared before us via Zoom today and we have listened to what they have had to tell us.

The facts of the case are that on the 23rd March 2022 the Authority received an email notification of an inspection failure report on the driver's hackney carriage from Takeley Performance Tyre and Exhaust one of the Council's approved garages. The report stated that the reason for the inspection failure was "*Nearside and offside front tyres worn to ply cord inner edge*". A copy of this is before us.

Further examination of records pertaining to the vehicle's history held by the Council revealed that on 21st September 2021, the driver's vehicle passed the inspection report but with an advisory note, "*Nearside rear tyre worn on inner edge nail in nearside rear tyre. Offside rear tyre tread depth low*". Again, this is before us and shows clearly the driver had notice of the potential problem.

On Wednesday 6th April 2022 the driver took part in a virtual video meeting with the Senior Compliance Officer and the Compliance Officer to discuss the circumstances of the failure. The driver explained that the vehicle inspector had told them that the tracking was out and that they would not have seen the fault in the tyres unless they were under the vehicle or had removed the wheel. The driver stated that they had not experienced any change of handling when driving the vehicle and thought they visually checked their vehicle properly on a regular basis, but apparently they do not run their hands around the inner edge of the tyres.

The driver admitted that he may have been complacent as the vehicle is checked every six months, that they have it serviced often although not at a Mercedes dealer as the last two years had been financially tough. The driver was deeply sorry but admitted that they had no excuse for the lapse. The driver could add nothing to this when they addressed us and thanked the case officer for the advice they had given.

On 14th April 2022 the driver was informed by email that their licence was being referred to the Licensing Committee for consideration of revocation or suspension. The driver was invited to submit a written statement to add anything further to what they had already stated.

Section 1, of Appendix B of the Council's Licensing Policy relating to the Hackney Carriage and Private Hire trades states that proprietors should

Keep the vehicle in a clean and well-maintained condition at all times.

The policy document is included within or bundle of papers and a copy has been served upon the driver.

By having two tyres with the cord ply exposed, the driver has failed to maintain his vehicle and therefore fallen short of the standards expected of vehicle proprietors as stipulated by the Council's policy. We find their attitude concerning: this is the second consecutive test when issues were raised regarding this vehicle's tyres, albeit not the same tyres, and it is clear the driver runs tyres down to the legal minimum tread. This is not acceptable.

The primary function of this Committee is the protection of the travelling public. This extends to the safety and roadworthiness of the vehicles in which they are transported, and it is a very serious matter to allow tyres to reach this condition. Mercifully there has not been an accident. The legislation makes this clear as does the case law and all authority in the area. Our role is to determine whether or not the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should revoke the licence.

There is no excuse. We have heard from the driver and we have taken what they say into account but the fact remains the driver had been warned on a previous occasion that their tyres were verging on the illegal and they only did the necessary minimum. The driver took no proactive action to check the other tyres. Even though ultimately, they did not face criminal charges, for which they should count themselves fortunate, and nor was there an accident, they knew they would probably need two more new tyres in the near future and were not proactive. They omitted to undertake the most elementary checks upon their vehicle and we do wonder how well this car is maintained. We add that each defective tyre would attract three penalty points and of course twelve amount to disqualification under the totting up procedure.

Accordingly we revoke their licence. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and the licence remains in being pending the determination of such an appeal. The driver will receive a letter from the Legal Department explaining the position.

We also have to consider the question of the car. Only a licensed driver may drive a licensed vehicle and if the driver chooses not to appeal our decision then they will not be able to drive their Mercedes when the appeal window closes.

Accordingly, therefore, we revoke the vehicle licence under the same conditions as we do their drivers' licence and in reality they stand or fall together.

LIC52 **REVIEW OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The Licensing and Compliance Officer gave a summary of their report which requested that Members determine whether the driver is considered 'fit and proper' to continue holding their licence.

The driver had chosen not to attend the meeting.

The meeting was adjourned at 1:06pm; the Panel retired to make its decision.

The meeting reconvened at 1:15pm.

The Chair read the decision notice.

DECISION NOTICE

The matter before the Panel today is an application for the review of the HC/PHV driver's licence held by the driver. They were previously employed by 24 x & Limited on the Home to School Transport side of the business and we understand they resigned their position when faced with disciplinary action by them.

The driver has not appeared before us today but they have sent in a written statement. We have read this with care.

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 the driver, the background documents annexed thereto and viewed the video footage referred to therein. We have also had the opportunity of hearing from the Licensing Officer and have read the papers before us most carefully.

On 25 March 2022, the East Riding of Yorkshire Business Manager for 24/7 Ltd, received an email from a Local Authority Contracts Manager. They informed them that they had seen a 24/7 schools contract driver smoking whilst driving their vehicle, a red Kia Sportage, index EU71 FGG, on 25 March 2022. The complaint and attached documents are before us.

The employer then carried out a review of cctv footage taken from the camera

located in the driver's vehicle, intending to locate evidence of smoking offences. During this search, footage was discovered that showed the driver driving his vehicle on 07 March 2022 at speeds in excess of 100mph. A young boy can be seen sitting in the front passenger seat and is heard to comment on the speed reached by the driver. We have viewed this CCTV footage, together with further footage of the driver smoking whilst driving on 25 March 2022

The driver was spoken to by their employer on 26 March 2022 and informed that they would be suspended by 24/7 Ltd pending an investigation. They resigned on the spot, with immediate effect. These two matters are criminal offences, and Licensing Officers have referred the matter to this Panel for its determination on whether the driver remains 'fit and proper' to be licensed by Uttlesford District Council as a Private Hire & Hackney Carriage driver.

We have viewed the CCTV footage. We make our decisions on the balance of probabilities and we are satisfied that the conduct complained of did occur. We read what the driver had to say and observe the presence of the CCTV camera in the car would have been part of his terms and conditions of employment. Even if the camera has not been properly calibrated, the margin of error is some 10% only and the speed at which scenery is passing suggests they were travelling very fast. The child sitting in the passenger seat is clearly terrified and should in any event have been sitting in the rear seat, and the driver has also been captured on film in the act of lighting a cigarette.

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 the person before us is a fit and proper person to continue to hold a HC/PHV licence and if we consider that they are not, then our duty is clear – we should revoke the licence.

This case involves two criminal offences, one a road traffic offence and one under the Health Act which took place in the course of the driver's employment as a school contract driver, which is a fully regulated activity under the Safeguarding Vulnerable Groups Act, and at the time of the speeding offence the footage clearly shows a child in the car. There is no excuse. These are

criminal offences committed in the course of employment, there was a child in the car, on one occasion and the driver has already resigned from their job, no doubt pre-empting their dismissal from that employment. We cannot consider them to be a fit and proper, ie safe and suitable, person to undertake work of this kind.

Accordingly we revoke the driver`s licence and we do so with immediate effect on the grounds of public safety. The driver has a right of appeal to the Magistrates Court which must be exercised within 21 days and ordinarily the licence would remain in being pending the determination of such an appeal. However, in this case we consider they pose an unacceptable risk, which is why we have taken the decision we have and they do not have this period of grace. The driver will receive a letter from the Legal Department explaining the position. We note the driver is also licenced with Richmondshire Council and we instruct the Licensing Team to provide them with a copy of this decision notice.

The meeting concluded at 1:19pm.