

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