

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on TUESDAY, 24 APRIL 2018 at 10.00 am**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, J Davey and E Hicks

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain (Enforcement Officer), J Jones (Licensing Officer) and C Nicholson (Solicitor)

Also present: The driver in relation to Item 3, the sister of the driver in relation to Item 3, a witness in relation to Item 3, the applicant in relation to Item 4, the applicant in relation to Item 5.

LIC63 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that under section 100I of the Local Government Act 1972 the public be excluded for the following item 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.

LIC64 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The procedure for determining a private hire/hackney carriage licence was read to the driver.

The panel considered the Enforcement Officer's report.

The Licensing Department had received a phone call from an operator who notified the Council that he had let the driver go from his employment for health and safety reasons. He said the driver had twice attempted to commit suicide, first by jumping off a bridge and then by stabbing himself.

Due to these recent incidents and concerns over the driver's mental health, his licence was being brought before the panel to consider whether he remained a 'fit and proper' person to hold a private hire/hackney carriage driver's licence.

The witness to the incident read out her summary of the driver's most recent suicide attempt.

The driver said he was not mental and he was suffering from a broken heart. His wife had been very violent to him, but he was now getting regular help from members of a Crisis Team. His psychologist was referring him for discharge.

Councillor Hicks said any decision made by the panel was based on the understanding that people go through difficult periods in life, rather than the belief that the driver was in any way a “head case”.

The driver said he was in a better place now. His attempted suicide at the bridge had been an overdose. He was currently staying with his sister, and while there was no mechanism in place to prevent him from seeing his wife, they were choosing not to see each other.

The meeting was adjourned for members to examine the Group 2 medical standards for assessing fitness to drive.

At 10.40, the panel re-adjourned.

The driver said he had been authorised to drive by his care team.

At 10.45, the panel retired to make its decision.

At 11.10, the panel returned.

The Chairman read out the decision.

Decision:

The driver holds a joint private hire / hackney carriage licence, and has done so since 2013.

Unfortunately the Council has been advised that over the last few weeks the driver has made a couple of attempts to commit suicide. The details of the events are set out in the officer's report.

The Council's licensing standards require drivers to meet the DVLA's group 2 medical standards, and recent events lead the Council to consider whether the driver meets those standards.

The driver has explained the circumstances and background to the recent events, the extreme stress and pressure that personal matters have brought, and the continued help and treatment he is receiving from the Crisis Team and their psychologist. He is still under their care, although discussions are taking place regarding his discharge. He advises that he has started taking medication which is also helping him.

Members are asked to consider whether the driver remains a fit and proper person to hold a driver's licence.

Public safety is the paramount consideration for the Licensing Authority, and Members take particular note of the guidance given by the DVLA in their group 2 medical standards. Those standards say in respect of agitation, behavioural disturbance or suicidal thoughts, that the driver must not drive, and must notify the DVLA.

Relicensing by the DVLA will depend on the outcome of medical enquiries and the DVLA will require a period of stability. The DVLA considers that it might be appropriate to relicense after 6 months, if the person is well and stable and not taking medication with side effects that affect alertness or concentration.

As these incidents happened so recently, Members have not got medical reports as to the mental health of the driver, or details of the medication he is taking. However, on the information they do have regarding the recent behaviour of the driver, and the details he has given about his current care, Members consider that the driver is on the balance of probabilities no longer fit and proper to drive members of the public.

Members consider that they would wish to see the driver have a period of stability, and a period during which the impact of his new medication can be assessed, as is advised by the DVLA in these circumstances.

The driver's licence does not expire until 31 January 2019, and therefore Members consider it is appropriate to suspend the licence until its expiry.

Members can consider lifting the suspension before this date, at another meeting of this committee, by the production of a satisfactory medical reports showing he meets Group 2 standards in relation to his mental health, and that the DVLA have been informed of the driver's situation, and are also happy for him to drive. This suspension is to take immediate effect on public safety grounds under section 61(2B) Local Government Act 1972, as the self-harm incidents took place so recently, and the driver is still under the care of the mental health teams.

The driver is advised that he can appeal against this decision on application to the Magistrates Court within 21 days of the notice of this decision. He is reminded that the suspension is immediate and he cannot drive pending any appeal.

LIC65 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The panel considered the Licensing Officer's report.

An enhanced Disclosure and Barring Service (DBS) certificate the applicant showed 6 convictions between September 1967 and October 1973 for various road traffic offences and offences under the Theft Act 1968.

The applicant therefore did not meet the Council's licensing standards as, although the convictions were spent in accordance with the Rehabilitation of Offenders Act 1974, point 5 of the Licensing Standards – Drivers states that an applicant must have "no criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed".

The applicant said he regretted what he had done in the past. He would like to change his life now.

In response to a question from Councillor Hicks, the applicant said he had not intended to hide his convictions on his application form. He had never been good at filling in forms and had thought he only needed to declare past driving convictions.

At 11.25, the panel retired to make its decision.

At 11.30, the panel returned.

The Chairman read out the decision.

Decision:

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a number of convictions details of which are set out in the officer's report. The convictions were varied but were all offences of dishonesty. In respect of these offences he received a range of punishments including custodial sentences. By virtue of the custodial sentences for offences of dishonesty the applicant does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy and the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note the explanations given by the applicant, detailed in the report and here today. The committee also note that the last offence was over 40 years ago and that the applicant has had no convictions of any nature since.

The applicant has also had responsible employment throughout that time, and most recently has been with his current employer for 17 years, working in an environment that required a significant level of trust.

In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

LIC66

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The panel considered the Licensing Officer's report.

On the application form, the applicant declared the following convictions

Offence	Disposal
Larceny	£5 fine
Larceny	Probation order
Theft and Going Equipped for Burglary	£5 fine Conditional Discharge 12 months
Burglary, going equipped, no insurance, taking motor vehicle without consent	Detention Centre 3 months, Driving licence endorsed

Theft	£10 fine
Criminal Damage	£100 fine
Assault	£35 fine

The applicant did not meet the Council's licensing standards as, although the convictions were spent in accordance with the Rehabilitation of Offenders Act 1974, point 5 of the Licensing Standards – Drivers states that an applicant must have “no criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed”.

The applicant said he was pleased to have the opportunity to explain his past mistakes. He did not recognise the person he was back then.

At 11.40, the panel retired to make its decision.

At 11.45, the panel returned.

The Chairman read out the decision.

Decision:

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a number of convictions details of which are set out in the officer's report. The convictions were varied but were for offences of dishonesty and violence. In respect of these offences he received a range of punishments including a custodial sentence. By virtue of the custodial sentence for an offences of dishonesty, the applicant does not meet the council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the council should depart from its policy and the applicant must demonstrate that notwithstanding the fact that he fails to meet the council's licensing policy he is a fit and proper person.

Members note the explanations given by the applicant, detailed in the report and here today. The committee also note that the last offence was over 20 years ago and that the applicant has had no convictions of any nature since.

The applicant has also had responsible employment throughout that time, undertook a part time degree and qualified as a surveyor, and worked in that industry for a number of years in the City and with Essex Fire Brigade. Following a change of circumstances, he has worked as a National Express coach driver without any issues.

In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

LIC67

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item was unable to attend.

The panel considered the Licensing Officer's report.

The driver had contacted the Licensing Department at the end of January to advise that he had suffered a stroke in November.

The Council's licensing standards for drivers' state drivers must "meet Group 2 medical standards as published by the Department of Transport" The DVLA Guidance for Group 2 drivers states that following a stroke drivers must not drive and must notify the DVLA. Individuals may not drive for 1 year following a stroke or TIA. Relicensing after 1 year may be considered providing certain conditions are met.

As the driver no longer meets Group 2 medical standards his licence was suspended with immediate effect on grounds of public safety under delegated powers in accordance with the council's licensing policy. In accordance with the Council's licensing policy, this suspension was referred to the panel for the purpose of determining whether the suspension as outlined above should be confirmed or the licence revoked.

At 11:50, the panel retired to make its decision.

At 11:55, the panel returned.

The Chairman read the decision to those present.

Decision:

The driver holds a joint private hire / hackney carriage licence, and has done so since 1999.

Unfortunately in November 2017, the driver suffered a stroke. DVLA Group 2 medical standards for driving following a stroke are that individuals must not drive for 1 year thereafter.

The Council's licensing standards require drivers to meet the DVLA's group 2 medical standards, and as the driver did not meet those standards, Officers exercised their delegated powers to suspend the licence with immediate effect on the grounds of public safety.

Members are asked to consider whether to confirm the suspension or revoke the licence.

Public safety is the paramount consideration for the Licensing Authority, and Members take note of the DVLA guidance regarding driving following a stroke. The driver's licence does not expire until March 2019, and therefore Members consider it is appropriate to confirm the suspension for 1 year, which can be lifted by production of a satisfactory medical report showing he meets Group 2 standards.

LIC68

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check upon application. The driver's application was processed with an old enhanced DBS check dated 29 September 2017 and a statutory declaration. However, he failed to supply a new DBS check.

The driver failed to respond to the Council's attempts to contact him. The matter was therefore brought before the panel for it to consider whether he remained a 'fit and proper' person to retain a private hire/hackney carriage driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. He was first licensing in November 2017, using a DBS check from September 2017, supported by a statutory declaration. This is done to speed up the application process, on the requirement that a new DBS is applied for thereafter and supplied to confirm no change.

The driver has not supplied a new up to date DBS check.

The driver has been chased by the Council by letter on two occasions and telephone, and he has not contacted the Council or provided any explanation for the failure.

This failure to provide an up to date check leads the Council to consider whether the driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the failure to have an up to date DBS check is a breach of Council policy, the check is vital to establish that a driver has not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke his licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC69

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

Licensed drivers are required to complete DVLA mandate forms for the Council every three years to enable the licensing department to carry out checks on DVLA records every year. The driver's last driver mandate expired on 31

January 2018 and she failed to supply a new one. This prevents the Licensing Department from being able to conduct Drivercheck's on her DVLA records.

Both the driver's last enhanced DBS check and medical expired on 31 January 2018.

Reminder letters were sent to the driver's address, but returned in the post as 'not known at this address return to sender.' No response was received to emails.

The matter was therefore brought before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire/hackney carriage driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out in January 2018. The Council also requires The driver to complete the DVLA mandate form to enable the Council to check her driving licence.

The driver has been chased by the Council by letter and email on a number of occasions, have tracked down an alternative contact address and also tried writing to her there, and she has not contacted the Council or provided any explanation for the failure.

This failure to provide up to date checks leads the Council to consider whether The driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC70 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo a Group 2 medical when they apply for a licence and then every three years after that. These checks assist the

Council in establishing where an applicant is a 'fit and proper' person to hold a licence. The driver's medical expired on 31 March 2017.

Licensed drivers are also required to complete DVLA mandate forms for the Council every three years to enable the licensing department to carry out checks on DVLA records every year. The driver's current mandate expired on 31 March 2018 and he failed to supply a new one.

The driver has not responded to the Council's attempts to contact him. His licence was therefore brought before the panel for it to consider whether he remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. His three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by March 2017. The Council also require the driver to complete the DVLA mandate form to enable the Council to check his driving licence.

The driver has been chased by the Council by letter on a number of occasions over the last 6 months, and he has not contacted the Council or provided any explanation for the failure.

This failure to provide up to date checks leads the Council to consider whether the driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that he has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC71

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service check and Group 2 medical when they apply for a licence and then every three years after that. The driver's last enhanced DBS and Group 2 medical checks expired on 31 December 2017.

The driver had not responded to the Council's attempts to contact her. Her licence therefore came before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by December 2017.

The driver has been chased by the Council by letter on a number of occasions, and she has not contacted the Council or provided any explanation for the failure.

This failure to provide up to date checks leads the Council to consider whether the driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC72

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council require all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. These checks assist the Council in establishing where an applicant is a 'fit and proper' person to hold a licence. Both the driver's last enhanced DBS check and group 2 medical expired on 31 December 2017.

The driver had not responded to the Council's attempts to contact her. Her licence therefore came before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence.

Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by December 2017.

The driver has been chased by the Council by letter on a number of occasions, and she has not contacted the Council or provided any explanation for the failure. The Council believe she is not at the address on the Council's records, but have been unable to find another address for her

This failure to provide up to date checks leads the Council to consider whether the driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC73 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The driver in relation to this item did not attend the meeting.

The panel considered the Enforcement Officer's report.

The Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and Group 2 medical when they apply for a licence and then every three years after that. These checks assist the Council in establishing whether an applicant is a 'fit and proper' person to hold a licence. The driver's last enhanced DBS check and Group 2 medical expired on 31 March 2017.

Licensed drivers are also required to complete DVLA mandate forms for the Council every three years to enable the licensing department to carry out checks on DVLA records every year. The driver's last mandate expired on 02 March 2018 and she has failed to supply a new one.

The driver had not responded to the Council's attempts to contact her. Her licence therefore came before the panel for it to consider whether she remained a 'fit and proper' person to hold a private hire driver's licence.

Decision:

The driver holds a current joint private hire/ hackney carriage drivers licence. Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out by March 2017. She is also required to provide an up to date DVLA mandate to check her driving licence.

The driver has been chased by the Council by letter and email on a number of occasions, and she has not contacted the Council or provided any explanation for the failure.

This failure to provide up to date checks leads the Council to consider whether the driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

The meeting closed at 12.15.