

Regulatory Committee Agenda

11 June 2020 at 7pm

Remote Meeting

Membership

Councillor L.A. Mascot (Chair)
Councillor D.G Jones (Vice Chair)

and Councillors

R.H. Ambor, L. Ashley, D.J.R. Clark, A.E. Davidson, J.A. Frascona,
P.V. Hughes, A.M. John, G.B.R. Knight, R.J. Lee, L.A. Millane, S.
Rajesh, I.C. Roberts and T.E. Roper

Local people are welcome to attend this meeting, where your elected Councillors take decisions affecting YOU and your City. There will also be an opportunity to ask your Councillors questions or make a statement. These have to be submitted in advance and details are on the agenda page. If you would like to find out more, please telephone Daniel Bird in the Democracy Team on Chelmsford (01245) 606523 email Daniel.bird@chelmsford.gov.uk

Regulatory Committee

11 June 2020

AGENDA

1. Apologies for Absence

2. Minutes

To consider the minutes of the meeting held on 13 February 2020

3. Declaration of Interests

All Members are reminded that they must disclose any interests they know they have in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they become aware of the interest. If the interest is a Disclosable Pecuniary Interest they are also obliged to notify the Monitoring Officer within 28 days of the meeting.

4. Public Question Time

Any member of the public may ask a question or make a statement at this point in the meeting. Each person has two minutes and a maximum of 15 minutes is allotted to public questions/statements, which must be about matters for which the Committee is responsible.

The Chair may disallow a question if it is offensive, substantially the same as another question or requires disclosure of exempt or confidential information. If the question cannot be answered at the meeting a written response will be provided after the meeting.

Any member of the public who wishes to submit a question or statement to this meeting should email it to committees@chelmsford.gov.uk 24 hours before the start time of the meeting. All valid questions and statements will be published with the agenda on the website at least six hours before the start time and will be responded to at the meeting. Those who have submitted a valid question or statement will be entitled to put it in person at the meeting, provided they have indicated that they wish to do so and have submitted an email address to which an invitation to join the meeting and participate in it can be sent.

5. Urgent Business

To consider any other matter which, in the opinion of the Chair, should be considered by reason of special circumstances (to be specified) as a matter of urgency.

Part II (Exempt Items)

To consider whether the public (including the press) should be excluded from the meeting during consideration of the following agenda items on the grounds that they involve the likely disclosure of exempt information specified in the appropriate paragraph or paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 indicated in the Agenda item

6. Review of a Hackney Carriage/Private Hire Dual Drivers Licence

Category: Paragraph 1 of part 1 of Schedule 12A to the Local Government Act 1972

(Information relating to any individual)

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

7. Application for a Private Hire Vehicle Licence

Category: Paragraph 1 of part 1 of Schedule 12A to the Local Government Act 1972

(Information relating to any individual)

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

MINUTES

of the

REGULATORY COMMITTEE

held on 13 February 2020 at 7pm

Present:

Councillor L.A. Mascot (Chair)

Councillors, R.H. Ambor, L. Ashley, D.J.R. Clark, A.E. Davidson, J.A. Frasca, I.D. Fuller, P.V. Hughes, D.G. Jones, R.J. Lee, L.A. Millane, T.E. Roper and R.J. Shepherd

1. Apologies for Absence

Apologies for absence were received from Councillors John, Knight, Roberts and Tron.

2. Minutes

The minutes of the meeting on 21 November 2019 were confirmed as a correct record and signed by the Chair.

3. Public Question Time

Two members of the public made statements on Item 5 and both asked that the Committee considered not accepting the proposal as detailed in the report. They raised concerns that the proposal would disadvantage drivers who had recently purchased Euro 5 standard vehicles. The Committee also heard that the proposal would affect in excess of 150 vehicles and were encouraged to continue with the Council's current policy. The Committee also heard that many Euro 5 standard vehicles did meet the Euro 6 emissions standards when tested but were not logged as Euro 6 vehicles and would therefore be affected. The two members of the public encouraged the Committee to reject the proposal until a suitable amendment was put forward by officers. The Chair confirmed that when presenting Item 5, officers would respond to the concerns put forward.

4. Declarations of Interests

All Members were reminded to declare any Disclosable Pecuniary Interests (DPI) or other registerable interests where appropriate in any of the items of business on the meeting's agenda. Councillor Fuller declared an interest in Item 9 and left the meeting for the duration of that item.

5. Vehicle Compliance with Euro 6 Emissions Standards

The Committee received a report regarding Euro 6 Emissions Standards. The report recommended that the Committee amend the licensing conditions for Hackney Carriage and Private Hire Vehicles to bring forward the date when the fleet would be compliant with the Euro 6 emission standard that reduces harmful emissions from vehicles. The Committee heard that in July 2019 the Council declared a Climate and Ecological Emergency. It had been recognised that to deliver those commitments the Council must work to make sure that wherever possible, vehicles were low emission and/or compliant with the Euro 6 standard.

The Committee heard that under the current conditions the fleet would not all be Euro 6 compliant until 2027. It was noted that the Council had committed to ensuring its own fleet of vehicles would be compliant by 2024 and it would be inequitable for taxis to comply prior to this date. Therefore, the proposed notice period of over four years was felt fair and reasonable by officers.

In response to the concerns raised by two members of the public, officers stated that there was more than sufficient notice being provided to the trade and it was not asking that all vehicles be Euro 6 compliant straight away. It was also noted that Euro 6 vehicles would be declared at the time of manufacture by the vehicle manufacturer as compliant and this information could easily be located. It was also confirmed that some older vehicles before the introduction of Euro 6 would still be compliant, as some manufacturers became compliant in advance.

The Committee agreed to amend the conditions as recommended by officers.

RESOLVED that

1. the licensing conditions for taxis and private hire vehicles be amended to require them to be Euro 6 compliant by 1st April 2024 and;
2. the licensing conditions for any replacement taxis or private hire vehicles replaced after 31st March 2020 be amended to require them to be Euro 6 compliant.

(7.01 pm to 7.22 pm)

6. **Urgent Business**

There were no items of urgent business to consider.

Exclusion of the Public

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Items 7,8,9,10 & 11 on the grounds that they involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

7. **Review of a Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. C**

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/ private hire drivers licence held by Mr. C to determine whether or not he is a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- To revoke the licence
- To add any conditions to the licence they feel necessary
- To allow Mr C to continue to hold a Hackney Carriage/ Private Hire Dual Drivers licence

The Committee heard that in November 2019 a complaint was received regarding Mr C refusing to take a fare. The Committee heard that the complainant was unwell and required a taxi for a short journey home late at night. The complainant told officers that the driver refused her fare as it was too short a journey. Mr C was interviewed by officers and at first did not recall the event, but did then recall a similar situation to the one described. Mr C stated under interview that he did not refuse the customer and just advised it was a short walk before she tried the taxi behind him.

The Committee were shown CCTV footage of the incident which showed the customer approaching Mr C's taxi, having a 45 second conversation and then going to the second taxi in the queue instead.

In response to questions from the Committee, Mr C said he advised the customer it was a short walk and was trying to save her money. He also stated that he did not know the customer was unwell.

The Committee gave careful consideration to the officers' report and to the representations made by Mr C at the meeting.

The Committee agreed that this was a serious issue and that judging by the CCTV footage and information provided it did appear that Mr C had refused a fare. It was decided that a warning be issued and a record kept on his file of the incident. The Committee stated that after much discussion they were happy for Mr C to retain his licence. They also stated that the fact Mr C refused a fare to a potentially vulnerable young woman was not acceptable and that his licence would again be under serious review if a similar incident were to occur in the future.

RESOLVED that the licence held by Mr C be allowed to continue.

8. **Review of a Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. M**

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/ private hire drivers licence held by Mr. M to determine whether or not he is a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- To revoke the licence
- To add any conditions to the licence they feel necessary
- To allow Mr M to continue to hold a Hackney Carriage/ Private Hire Dual Drivers licence

The Committee heard that in November 2019 a complaint was received regarding Mr M refusing to take a fare. The Committee heard that the complainant was unwell and required a taxi for a short journey home late at night. The complainant told officers that the driver refused her fare as it was too short a journey. Mr M was interviewed by officers and stated that the complainant approached him as the second taxi in the queue after having a conversation with the first taxi. Mr M asked the customer why she had not taken the first taxi and offered to speak with the driver at the front of the queue, but the customer then left before he had the opportunity too. The Committee viewed CCTV footage of the incident which showed the complainant holding a short conversation at Mr M's vehicle before walking away from the taxi rank.

In response to questions from the Committee, Mr M stated that the complainant approached him and he asked why the first taxi had not taken her fare. He explained that he had to speak to the driver in front first to find out as it often caused issues between drivers if they took fares from further back in the queue. He said that before being given a chance to do this the customer left and walked away from the rank. He stated that he had clearly said to the customer he would accept her fare but needed to speak to the driver in front first.

The Committee gave careful consideration to the officers' report and to the representations made by Mr M at the meeting.

The Committee took the view that it was not clear on the evidence whether Mr M had deliberately refused the fare or not and therefore allowed his licence to continue. The Committee did, however, remind Mr M that it was not acceptable for licensed drivers to refuse a fare and that furthermore members of the public had an absolute right to choose any taxi in a rank. He was asked to bear this in mind for the future.

RESOLVED that the licence held by Mr M be allowed to continue.

9. **Review of a Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. E**

Councillor Fuller declared an interest in this item and left the meeting for its duration.

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/ private hire drivers licence held by Mr. E to determine whether or not he is a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- To permit the licence to continue in its present form until it expires on 22nd September 2020 and delegate renewal to the Director of Public Places if no further points are added to the licence.
- To suspend the licence until
 - a driver awareness course or,
 - a Driving Standards Agency Private Hire/Hackney Carriage Assessment as approved by (M8-LR3-2002)

As determined by the Committee, has been successfully completed

- To revoke the licence on the grounds that the licence holder is not a 'fit and proper person' to be so licensed.

The Committee was informed that officers heard from Essex Police in December 2019 that Mr E had a total of nine penalty points on his driver's licence. The Committee noted that once nine penalty points were received their licence had to be considered by the Regulatory Committee. The Committee heard that officers had not been informed of the most recent points by Mr E, despite this being a condition on his licence. It was noted that Mr E attended the Council offices in January 2020, where he told officers he had been away and therefore unable to inform them.

In response to questions from Members, Mr E stated that on the day he received the further points at court he had to then rush abroad for a family emergency. Therefore, he did not have the opportunity to inform licensing officers of his additional penalty points. He stated that on his return he found a letter from the Licensing department and came in to speak about the issue.

The Committee gave careful consideration to the officers' report and to the representations made by Mr E at the meeting.

The Committee agreed that by not informing officers of the points as required by his licence, they had serious concerns about Mr E's behaviour. The Committee felt it was important licence holders abided by their licence conditions.

The Committee stated that they were concerned about the nine penalty points which related to two driving offences with safety implications. They were also concerned that he failed to notify licensing officers of the recent points, albeit they took into account his explanation. It was noted though that Mr E could have notified officers via email whilst abroad. The Committee decided to suspend Mr E's licence until he completed a full day driving awareness course from the Institute of Advanced Motorists at his own expense.

RESOLVED that the licence held by Mr E be suspended until a full day driving awareness course from the Institute of Advanced Motorists had been successfully completed.

(8.21 pm to 8.41 pm)

At this point Cllr Davidson left the meeting.

10. **Review of a Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. M**

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/ private hire drivers licence held by Mr. M to determine whether or not he is a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- To permit the licence to continue in its present form until it expires on 18th October 2021.
- To revoke the licence on the grounds that the licence holder is not a 'fit and proper person' to be so licensed.

The Committee was informed that Mr M was initially suspended in early 2019 due to an arrest being made by Essex Police. During this period the Council's Lead Licensing Officer at the time witnessed Mr M driving a Hackney Carriage vehicle whilst suspended. The Committee heard that various interviews took place with Mr M and the owner of the vehicle and Mr M provided no comment when directly asked if he had been driving the vehicle. The Committee were informed that officers felt they had a very credible witness that Mr M had been driving a licenced vehicle whilst unlicensed as it was the Lead officer of the Licensing team at the time who had seen him.

The Committee heard that in January 2020, Essex Police confirmed to officers that they were no longer taking action against Mr M and he was therefore handed back his badges. The Committee was informed that officers felt it needed a Committee level decision as to whether he was fit and proper though, due to being seen driving whilst suspended.

In response to questions from the Committee, Mr M stated that he had been patient whilst waiting the police outcome and had not committed a crime. Mr M also stated that the owner of the vehicle had been driving the vehicle to the mechanics.

The Committee gave careful consideration to the officers' report and to the representations made by Mr M at the meeting.

The Committee agreed that this had been a serious offence to drive a licenced vehicle whilst suspended. The Committee also felt that they had a very reliable witness in the Council's Lead Licensing Officer at the time.

The Committee decided that Mr M was no longer a fit and proper person to hold a licence. This was because a reliable witness in the Council's Lead Licensing Officer at the time saw him driving a licensed vehicle whilst suspended.

RESOLVED that the dual drivers licence held by Mr M be revoked pursuant to Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 for "other reasonable cause"; namely that due to his conduct the Committee is no longer satisfied that he is a fit and proper person to hold such a licence.

(8.42 pm to 9pm)

11. **Application for a Review of Two Private Hire Operators Licences – Mr. J**

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider an application for the review of two private hire operators licences held by Mr. J and to determine whether or not he was a fit and proper person to hold the licences.

Members were advised that the following options were available to them;

- Allow the licences to continue until they expire
- Revoke the licences

The Committee were reminded that in October 2019 Mr J had his dual drivers licence revoked as it did not feel he was a fit and proper person to hold such a licence. It was noted that at this meeting Mr J was allowed to keep his two operators licences. Officers informed the Committee that shortly after the Christmas break an anonymous phone call was made to inform officers that Mr J had been driving a licensed vehicle. Officers phoned Mr J and he admitted to driving a licenced vehicle twice over the Christmas break. Mr J was then invited to attend an interview and the key points from the interview were provided to the Committee via a green sheet of amendments (as this was after the publication of the agenda). The key points from the interview detailed that Mr J understood he had been banned from being a taxi driver, he drove on two occasions but there were no records as he didn't charge for the journeys and his insurance provider had told him he was insured to drive the vehicle for private purposes. It was also noted that Mr J failed to understand that only a licensed driver can drive a licensed vehicle and therefore would not have been insured.

In response to questions from the Committee, Mr J stated that he was devastated to be before the Committee again and had accepted the consequences of his initial actions which led to his licence being revoked. Mr J told the Committee that he had not charged for either journey and was helping customers out of goodwill and therefore did not feel he had contravened his operators licence. He stated that with hindsight he realised what he had done was unacceptable, but it had not been for any personal gain and only to help customers. He also stated that losing his operators licences would have severe personal effects on him. Mr J also stated that with hindsight he should have just used his private vehicle.

The Committee gave careful consideration to the officers report and to the representations made by Mr J at the meeting.

The Committee agreed that this was a very serious offence, especially happening so soon after losing his dual drivers' licence but being allowed to retain his operators licences. The Committee stated that by his own admission Mr J had driven a private hire vehicle on two occasions. The Committee felt this was completely wrong and unlawful and that due to having an operators licence he should have known better. The Committee stated that if he had wanted to help people, he should have used his private vehicle. The Committee stated that they had no option but to revoke the two operators licences.

RESOLVED that the two operators licences held by Mr J be revoked pursuant to Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 for "other reasonable cause"; namely that due to his conduct the Committee is no longer satisfied that he is a fit and proper person to hold the licences.

(9.01 pm to 9.23 pm)

The meeting closed at 9.23 pm