

25 January 2024 at 7pm

Marconi Room, Civic Centre, Chelmsford

Membership

Councillor R. Lee (Chair)
Councillor D. Clark (Vice-Chair)

and Councillors

N. Bugbee, N. Chambers, P. Davey, A. Davidson, S. Davis, J. Frasca, A. John, V. Pappa, S. Rajesh, S. Scott and P. Wilson

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 email dan.sharma-bird@chelmsford.gov.uk or telephone (01245) 606523

Regulatory Committee

25 January 2024

AGENDA

1. Apologies for Absence

2. Minutes

To consider the minutes of the meeting held on 16 November 2023.

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 20 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 at least 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.

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.

5. Application for a new 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.

6. 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.

MINUTES OF THE
REGULATORY COMMITTEE

held on 16 November 2023 at 7.00pm

Present:

Councillor R.J. Lee (Chair)

Councillors, N. Bugbee, D. Clark, A. Davidson, S. Davis, J. Frasca and S. Rajesh

1. **Apologies for Absence**

Apologies for absence were received from Councillors Chambers, Pappa, Scott and Wilson.

2. **Minutes**

The minutes of the meeting held on 7 September 2023 were agreed as a correct record and signed by the Chair.

3. **Declaration of Interests**

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. **Public Question Time**

No public questions were asked or statements made.

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 5,6 & 7 on the grounds that it involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

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

Public interest statement: It is not in the public interest to disclose the content of the 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 Driver X to determine whether or not they were a fit and proper person to continue to hold the licence.

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

- Take no action (allow the licence to continue).
- Issue a warning.
- Require the licence holder to undertake specific actions in order to keep the licence.
- Apply additional conditions to the licence.
- Suspend the licence.

Officers introduced the matter to the Committee. The Committee heard that Driver X had submitted a re licence application and that in line with the Taxi policy, a check was made on the status of the licence and to see if any points had been received. It was found that 9 points were present on the licence, above the threshold of 6 for an officer decision, so the matter had to be referred to the Regulatory Committee. The Committee heard that the Council's records showed that Driver X had not informed the Council when any of the points were received, despite it being a condition of the licence to do so. The Committee were informed that as the check had revealed more than 6 points, the licence was approved to run provisionally pending referral to the Regulatory Committee for a final decision.

The Committee had received a letter from Driver X in advance of the meeting, apologising for the mistake and oversight. They also addressed the Committee in person and stated that they had inputted all of the convictions when re applying for their licence, but understood they should have informed the Council when receiving the actual points. In response to questions from the Committee, Driver X confirmed that the speeding points were from their personal vehicle rather than when driving a taxi.

RESOLVED that after consideration Driver X's dual hackney carriage / private hire vehicle driver's licence be suspended pursuant to section 61 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 (for 'any other reasonable cause') for a period of three calendar months.

Reasons for Decision

Driver X's three convictions for speeding within the space of one year (27/02/21 – 14/02/22) (resulting in a total of 9 points) were a matter of concern and had led the Committee to question whether such offences were indicative of a disregard by Driver X for road traffic laws. The Committee had, however, been prepared in this particular instance to give some weight to the fact that none of the speeding offences had been committed whilst Driver X had been driving a taxi and furthermore, they

had not committed any further road traffic offences since the date of the last offence (14/02/22).

Of particular concern to the Committee, however, was the fact that Driver X had failed to disclose these three speeding convictions to the Council (as licensing authority) at the time, notwithstanding condition 8 of their licence (of which Driver X was well aware) which required them to disclose any such conviction within seven days. There was no excuse for these failures and Driver X had themselves acknowledged this when apologising to the Committee for their failures. Condition 8 was a standard condition, attached to all hackney carriage / private hire vehicle drivers' licences and was imposed in the public interest. The fear on the part of a driver that disclosure of a conviction could mean a referral to Regulatory Committee and jeopardise their licence was understandable. Likewise, the temptation for a driver not to disclose such conviction and continue driving until the Council became aware of the conviction and acted. However, the failure to notify promptly the Council of convictions for road traffic or other offences should be viewed as particularly serious as it prevents the Council from taking that information into account when protecting public safety. Furthermore, it was essential that the Council took appropriate (including deterrent) action against those drivers who were guilty of such failure; otherwise, there was a real risk and likelihood that condition 8 would be undermined and ineffectual.

It was a finely balanced decision for the Committee in this particular case as to whether Driver X could be regarded as a fit and proper person to continue to hold a dual hackney carriage / private hire vehicle driver's licence. Normally, failure to disclose on three separate occasions would result in revocation. However, each case fell to be determined on their merits. On balance and having due regard in particular to Driver X's expressed remorse and apologies for failing to notify, together with their assurances that there would never be a repeat of such conduct, the Committee was minded to allow Driver X to retain their licence.

However, the Committee considered that it was in the interests of the public to impose a sanction in the form of a suspension for three calendar months.

(7.02pm to 7.52pm)

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

Public interest statement: It is not in the public interest to disclose the content of the 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 Driver X to determine whether or not they were a fit and proper person to continue to hold the licence.

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

- Take no action (allow the licence to continue).
- Issue a warning.
- Require the licence holder to undertake specific actions in order to keep the licence.
- Apply additional conditions to the licence.
- Suspend the licence.

Officers introduced the matter to the Committee. The Committee heard that a third party complaint against Driver X had been received in 2021 that despite an active non molestation order, there had been incidents of harassment committed by Driver X, but that further action had not been pursued by the Police. Therefore, the Licensing Department did not feel the need to investigate the matter further. The Committee heard that under an automatic 6 month DBS check by officers, a change had been highlighted, leading to an enhanced DBS certificate being requested from Driver X. This form detailed a conviction for a breach of a Non-Molestation Order offence. It was noted that no contact had been received from Driver X at the time of the conviction. As a result of the conviction and the Council not being informed at the time, officers felt that the matter should be referred to the Regulatory Committee, to assess whether Driver X remained a fit and proper person to hold a licence.

Driver X attended the Committee and provided an overview of the history that had led to the conviction and their view of the events, which had included significant personal issues. They informed the Committee, that they were aware they should have notified the Council but did not do so at the time, feeling instead that the automatic check would lead to the Council getting in touch with them. They informed the Committee of previous occasions where they had informed the Council of points, and also noted that they referred to the conviction when renewing their vehicle licence plate. They referred to an unblemished record in terms of complaints from the public and stated that they required the licence to earn money and support their family. The Committee also heard from another taxi driver, who spoke in support of Driver X's character and their previous experience in working with them when they had been a reliable and trusted peer.

In response to questions from the Committee, Driver X confirmed that they had mentioned the conviction when submitting the form to renew their vehicle plate and provided some further information about the events leading to their conviction.

RESOLVED that the dual hackney carriage / private hire vehicle driver's licence held by Driver X be revoked pursuant to section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 for other reasonable cause, namely that because of Driver X's conviction for breaching a non-molestation order and their failure to notify the Council's Licensing Section of such conviction the Committee was no longer satisfied that Driver X was a fit and proper person to hold such licence.

Reasons for decision

The Committee considered the representations put forward by Driver X and their representative and noted that Driver X had held a dual driver's licence since 2009 and that furthermore this was the first occasion on which they had come before the Committee. The Committee also had regard to Driver X's assertion that the breach of the non-molestation order had been a minor or technical breach and one which they had subsequently regretted. However, the Committee could not go behind the conviction and furthermore only had Driver X's version of events to go on.

By law, the Committee had, in effect, to be satisfied in its own mind that Driver X continued to be a fit and proper person to hold a licence. The following aspects of Driver X's conduct gave the Committee particular cause for concern.

1) Breach of a non-molestation order was a serious matter and was indicative of a disregard for the law. The Committee also noted that sentence imposed on Driver X for such breach was significant and was indicative of the Magistrates' Court taking the view that this was more than a minor or technical breach.

2) Driver X's failure to disclose their conviction to the Licensing Section was also a matter of concern and constituted a clear breach of the licence conditions. The Committee was not satisfied with Driver X's explanation for this failure to disclose. It was of crucial importance that the Council could have confidence in drivers that they would promptly disclose (within 7 days) any criminal conviction, caution, or penalty notices.

(Irrespective of Driver X's failure to disclose their conviction, the Committee considered the breach of the non-molestation order on its own to be of sufficient concern to warrant revocation of the dual licence.)

(7.53pm to 8.25pm)

7. [Application for a new Hackney Carriage / Private Hire Dual Drivers Licence](#)

Public interest statement: It is not in the public interest to disclose the content of the 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 a dual hackney carriage/ private hire drivers licence by Driver X to determine whether or not they were a fit and proper person to hold a licence.

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

- Grant the licence as applied for.
- Grant the licence with additional conditions.
- Require pre-conditions to be met before granting and delegate the authority to grant once those pre-conditions are met.
- Refuse the licence.
- Issue a licence for a period less than 3 years (Chelmsford taxi licensing policy paragraph 2.2.2, 'A dual Drive Licence is issued for a maximum period of 3 years).

Officers introduced the matter to the Committee. The Committee heard that Driver X had previously had their licence revoked by the Committee in 2019, due to not being seen as a fit and proper person. The Committee heard that they had since recently re applied and due to relevant convictions including a six-month driving ban their application did not meet the policy for granting a licence. This was due to the guidelines on convictions stating that a licence would not be granted until at least five years had lapsed following a completion of any driving ban conviction that had been imposed, this time had not yet passed. Driver X appealed the Council's decision to refuse the application and therefore the matter was being presented to the Committee, for them to decide whether Driver X was a fit and proper person to be issued with a licence.

Driver X was represented at the meeting by their solicitor. They highlighted two main reasons why the licence should be granted. These were that the original conviction was not for careless or dangerous driving and the ban was only imposed due to points being totted up from the initial offence and other speeding offences. Therefore they felt that as the disqualification was in relation to totting up, it should not be viewed the same as a driving ban for a more serious offence and therefore the 5 year gap after a driving ban should not be relevant. The second reason provided was that the initial incident had nearly taken place over 5 years ago, despite the conviction coming at a later date due to court delays etc. They felt that the young age of Driver X at the time should be taken into consideration, with them now being more mature and having had the time to regret the consequences of their actions previously. It was noted that they posed no risks to passengers, had passed the relevant pre application processes and the case was one of exceptional circumstances where it had to be remembered, that guidelines were guidelines and each case should be considered on its own merit. In response the Committee's legal advisor, disagreed with the interpretation of the policy referred to and felt that page 8 of the guidelines did clearly state that any form of driving ban should prevent the granting of an application for five years. In response to other questions, Driver X's solicitor stated that their client had been in shock after the initial incident and behaved out of character after the non fault accident. In summary, Driver X's solicitor felt that their client had shown remorse, not committed any further offences, had received no public complaints and the initial incident was not related to the manner of their driving.

RESOLVED that after consideration Driver X's application for a dual hackney carriage / private hire vehicle driver's licence be granted.

Reasons for Decision

On balance, the Committee was satisfied that Driver X could now be considered a fit and proper person to hold such licence. The Committee had, in particular, taken into the length of time that had elapsed since the incidents which had led to the revocation of Driver X's dual licence and the fact that they had been young at the time. The representations made by Driver X at the hearing, together with those put forward on their behalf by their solicitor, along with the character references, had led the Committee to conclude that Driver X had shown genuine remorse and, crucially, had 'moved forward' with their life and that it was unlikely that there would be repeat of the conduct that resulted in the revocation of their licence. The Committee did not share Driver X's solicitor's interpretation of the guidelines – namely, that the reference at page 8 to a licence not being granted until at least five years has lapsed following a driving ban was not applicable to driving bans which had resulted from 'totting up'. However, the Committee agreed that ultimately each case had to be considered on its own merits and while the guidelines provided the starting point (and considerable weight should be accorded to them) they were not inflexible; it was permissible for the Committee to depart from them where the circumstances of a particular case justified doing so.

(8.26pm to 9.48pm)

8. Urgent Business

There were no matters of urgent business.

The meeting closed at 9.49pm

Chair