

Committee: Licensing Committee

Agenda Item

Date: 16 December 2009

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Title: Determination of a Private Hire Driver's Licence

Author: Murray Hardy (01799) 510598

Item for
decision

Summary

This report has been submitted for members to consider revocation of a Private Hire Driver's Licence in accordance with Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 under the heading for any other reasonable cause.

Recommendations

The Committee determine whether the licence should be revoked

Background Papers

Copy of conditions of private hire driver licence
Copy of licensing standards
Copy of DVLA counterpart driving licence
Application to renew private hire drivers licence

Impact

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper.
Equalities	None.
Finance	None.
Health & Safety	None
Legal implications/ Human Rights	<p>In the event of a licence being suspended or revoked a driver has a right of appeal to a Magistrates Court.</p> <p>Whilst it is legitimate for Councils to have policies, they may not be rigidly bound by them and must be prepared to make</p>

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	<p>exceptions to policy in appropriate circumstances.</p> <p>In the event that Members determine to revoke the licence and are of the opinion that in the interests of public safety the revocation should take immediate effect and give reasons for that opinion Members can require a notice to be served that the revocation has immediate effect.</p> <p>A licence is a possession within the meaning of the Human Rights Act and individuals are entitled to the peaceful enjoyment of their possessions. However interference with this right is permissible in accordance with the law for the public good. The licensing regime falls within this exemption.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

- 1 Norman Mauroo of Highwood, Duddenhoe End, Saffron Walden, Essex has held a private hire driver's licence issued by this authority for some time. He currently works for Central Executive Cars who are based at Stansted Airport.
- 2 At the time of the renewal of his licence in December 2007 he did not meet our current licensing standards as he disclosed a pending prosecution. It appears that due to an administrative error in the Licensing Department his licence was issued to run for a further 12 months.
- 3 Mr Mauroo appeared at Harlow Magistrates Court on 4 March 2008. He pleaded guilty in person to an offence of exceeding the speed limit of 30mph. At the time of his appearance he was not legally represented and was fined £200 with six penalty points being endorsed on his licence. This constitutes a serious motoring offence as defined by the Council's licensing standards and as such Mr Mauroo would not normally have been entitled to a licence.
- 4 Contrary to the conditions of his licence Mr Mauroo failed to notify the Council of this conviction at the time.
- 5 In December 2008 Mr Mauroo presented to renew his licence late and did not supply his licence at the time of the application. In order to assist him a licence was prepared but not issued until his driving licence was received.

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Unfortunately the endorsement for 6 points was overlooked and the licence issued in error.

- 6 On 3 December 2009 Mr Mauroo was interviewed in the Council Offices at Saffron Walden by the Licensing Officer after it was discovered that his current licence had been issued in error which put it in contravention of the current licensing standards.
- 7 The circumstances that related to his conviction on 4 March 2008 resulted from him being stopped whilst driving a licensed vehicle on Long Border Road, Stansted Airport at about 10am on 7 December 2007.
- 8 It appears that Essex Police were conducting speed checks at this location. When he was stopped for exceeding the 30mph speed limit Mr Mauroo cannot remember the exact speed that he was travelling at however he describes the road conditions as being excellent with clear visibility with very little traffic being on the road. At the time of this incident there were no passengers on board and he was returning to the base area of Checker Cars with whom he was employed as a driver. The direction of his travel was from Endeavour House towards the Main Terminal.
- 9 In interview with the stopping officer he was under the impression that he may have received a Fixed Penalty Notice plus three penalty points on his licence however he alleges that the officer had to seek guidance from a supervisory officer as to how to dispose of this matter. Having received the relevant guidance the officer reported Mr Mauroo for issue of a summons to Court.
- 10 Enquiries with the Road Policing Unit for Essex Police reveal that their policy for prosecution is based on the formula of ten per cent plus two. This equates to speeds between 31 and 35 mph being given a warning, with a speed of 36mph and above resulting in a fixed penalty or a prosecution.
- 11 Enquiries with his current employer reveal that should he retain or receive a short period of suspension then he will be offered continued employment with this company.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
If Members are of the view that Mr Mauroo is not a fit and proper person there may be some danger to the public if he is allowed to continue to drive	2 - It is likely that members will take note of the current licensing standards	4 - Permitting unfit persons to drive may cause damage to property, personal injury or even death.	Members consider whether there are any circumstances which would suggest that Mr Mauroo is a fit and proper person so as to justify a departure from policy. Members are reminded that the High Court has held that the personal circumstances

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			of a driver cannot amount to such circumstances save for in exceptional cases to explain the conduct of the driver.
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.