

**Committee: LICENSING**

**Agenda Item**

**Date: 20 January 2010**

**4**

**Title: POSSIBLE REVOCATION OF A HACKNEY  
CARRIAGE DRIVER'S LICENCE**

**Author: Michael Perry, Assistant Chief Executive,  
01799 510416**

Item for decision

---

## Summary

1. This report informs Members of steps I have taken under delegated powers to suspend a driver's licence with immediate effect and to enable Members to reach a decision as to whether or not the driver should continue to drive as a licensed hackney carriage driver.

## Recommendations

2. Members determine whether or not to revoke the driver's licence.

## Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
  - Emails received from the Licensing Officer passing on information obtained from the proprietor of the vehicle which was being driven by the driver.
  - The driver's licensing file.

## Impact

- 4.

Communication/Consultation	None.
Community Safety	If a person is permitted to drive when they are not a fit and proper person then the safety of passengers and other road users may be endangered.
Equalities	None.
Finance	If the driver's licence is revoked it follows it would not be renewed on application and there would therefore be a small financial detriment to the council.
Health and Safety	As Community Safety above.

Human Rights	A licence is a possession within the meaning of article 1 schedule 1 part 2 Human Rights Act 1998. That article provides that no one should be deprived of his possessions except in the public interest and subject to conditions provided for by law. The power to suspend and revoke a licence is a statutory power contained in section 61 Local Government (Miscellaneous Provisions) Act 1976 and the protection of public safety is clearly a matter within the public interest.
Legal implications	The driver has a right of appeal against my decision to suspend and will have similar right against a decision of the committee to revoke the licence if that decision is taken. As I have informed the driver that I consider it is in the interest of public safety that the suspension should take immediate effect he may not drive pending a determination of an appeal against my decision. If the committee also direct that the revocation takes immediate effect he may not drive pending a determination of an appeal against the committee's decision.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

5. David Oakes is licensed by this authority as a hackney carriage driver. He was first so licensed in 2007. His most recent licence was granted on 28 January 2009 and expires on 31 January 2010. He has until recently been employed by Elsenham Cabs.
6. I received information from Elsenham Cabs via the Licensing Officer Mr Hardy that on the 28 December 2009 at approximately 6.30 pm Mr Oakes was driving a hackney carriage on behalf of Elsenham Cabs. He had just dropped a passenger at Stansted Airport and was returning from that assignment where he was stopped by the police for exceeding the speed limit. He was required to take a breathalyser test which proved positive. He was charged with the offence of driving with excess alcohol and was summoned to appear for at the Harlow Magistrates Court on 6 January 2010. For reasons not

known to me the case did not proceed on that date and the matter has been adjourned to the 13 January 2010.

7. I am informed that the breath/alcohol ratio was at least twice the legal limit.
8. I understand that following the alleged offence Mr Oakes has been dismissed by Elsenham Cabs. However, his licence is not limited to that company and he would be legally able to drive with his licence until the time it expires on 31 January 2010.
9. In my opinion somebody who has a conviction for drinking and driving, particularly when the offence occurred when the individual was working as a hackney carriage driver, poses a threat to public safety. I therefore exercised my delegated powers to suspend the licence with immediate effect.
10. In the field of hackney carriage driver licensing it is permissible to have regard to spent convictions. Mr Oakes in fact has spent convictions for offences of drinking and driving. There are offences committed on the 23 May 1995 and 3 June 1995. In respect of each of these offences he was disqualified for a period of 3 years. No fine is indicated but in the column marked 'other' on the driver's licence there is a reference to '18M'. In the absence of a fine I assume this to be a reference to a custodial sentence.

## Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
An unfit driver is permitted to drive hackney carriages in the district.	1, members have in the past shown a keen regard for public safety.	4, in the event an unfit driver was permitted to drive there is a risk of death, personal injury or damage to property.	Members only permit the driver to continue to drive in the event that they are satisfied that there are circumstances relating to the offence which would justify departure from policy.

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.