

Committee: Licensing Committee
Date: 27 September 2010
Title: Determination of a Private Hire Driver's Licence
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Agenda Item

2

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) (a) Local Government (Miscellaneous Provisions) Act 1976 and a private hire operator's licence under s.62 (1) (a) of the Act on the ground that the licence holder has been convicted of an offence under Part 11 of the Act under the heading for any other reasonable cause.

Recommendations

The Committee determine whether or not the licences should be revoked.

Background Papers

Report on Conviction at Court from Mrs Rogacs
Copy of licensing standards
Letter of Mitigation submitted to the Magistrates Court
Copy of Private Hire Driver's Licence
Copy of Private Hire Operator's Licence

Impact

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

	circumstances.
	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.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

- 1 Wael Kweder of 65 Atkins Road, Cambridge, is currently licensed by this authority as a private hire driver. His licence expires on 31 March 2011. He also holds a private hire operator's licence trading as Olly's Wheelchair Friendly which expires on 31 March 2011.
- 2 He was first licensed on 3 April 2006 and works mainly on Essex County Council and National Health Service contracts on behalf of his own company. His company specialises in providing transport for disabled people and those with health problems.
- 3 On 27 August 2010 this authority prosecuted Mr Kweder for one offence using an unlicensed private hire vehicle. He pleaded guilty at Harlow Magistrates Court and was given a conditional discharge for 12 months and ordered to pay £200 Court costs.
- 4 In view of this conviction he does not now meet our licensing standards for drivers insofar as he is in breach of Condition 4 which states that a person shall not have a criminal conviction which is not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974, and not to have been conditionally discharged for an offence within the last 5 years.
- 5 Upon receipt of this information the Licensing Officer contacted Mr Kweder requesting an interview with him to ascertain the circumstances that led to his conviction in order that a report could be prepared for submission to the Licensing Committee.
- 6 On 7 September 2010 Mr Kweder accompanied by his representative was interviewed by the author of this report in the Council Offices, Saffron Walden regarding the circumstances that led to his recent conviction.
- 7 The conviction relates to the use of an unlicensed vehicle which was being driven by Mr Kweder on 7 June 2010. At the time the vehicle was being used on an Essex County Council Contract.
- 8 At about 9am on the 7 June 2010 he picked up a lone female passenger who suffers from health difficulties from her home address in Whiteshot Way,

Saffron Walden to convey her to the Adult Learning Centre in Fairycroft Road Saffron Walden. The vehicle he used on this particular occasion was a Ford Focus Motor Car. This is a regular route for him in which he normally uses a Renault Traffic Master which is licensed by this authority to carry 8 passengers. The reason for this is that all 8 passengers can travel together in a friendly atmosphere and that they all arrive at the centre simultaneously. On the return journey in the afternoon he did use a licensed vehicle to convey this passenger back to Whiteshot Way.

- 9 On a previous occasion he experienced difficulty in getting to the centre in a reasonable time which was due to the ongoing road works in Ashdon Road Saffron Walden. He alleges that instead of taking about 10 minutes to go from Whiteshot Way to the Centre it took approximately one hour which caused a great deal of distress to this particular female as the size of the Renault Traffic Master meant the vehicle was too big for use along Ashdon Road. He did inform the parents of this girl and it was agreed to use a smaller vehicle so as to reduce the travelling time thus reducing any stress that may have arisen.
- 10 Following information received by this authority Mr Kweder was interviewed by a member of the Enforcement Team where in a tape recorded interview he did readily admit the use of an unlicensed vehicle. Following that interview a prosecution file was submitted resulting in his court appearance at Harlow.
- 11 He employs 3 other persons to work on behalf of his company all of whom are licensed by this authority. The contract to which this incident refers is still intact, however Essex County Council did terminate a smaller contract held by Mr Kweder following the use of this unlicensed vehicle.
- 12 He is currently qualified as a First Aider with St John Ambulance and is qualified in manual handling of disabled passengers.
- 13 In addition to the licences held in Uttlesford he does hold a valid Hackney Carriage Driver's Licence issued by Cambridge City Council which is due to expire on 3 August 2011.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unfit person is authorised to drive private hire vehicles in the district	1 – Members are aware of and apply our licensing standards	4 – Permitting unfit persons to drive or allowing the use of unlicensed (and therefore untested) vehicles may cause damage to property, personal injury or even death	Members consider whether Mr Kweder remains a fit and proper person in light of his conviction.

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.