

**Committee:** Licensing Committee

**Agenda Item**

**Date:** 22nd August 2011

**2**

**Title:** Determination of a Private Hire Driver's Licence

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Item for  
decision

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## 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 for any other reasonable cause.

## Recommendations

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

## Background Papers

Notification from Hertfordshire Police re Court proceedings against Mr Haynes.

Copy of the current Licensing Standards

Copy of current Private Hire Driver's Licence in the name Patrick John Haynes.

Copy of the current Private Hire Driver Conditions

Copy of letter sent by Mr M Perry dated 8<sup>th</sup> April 2010 advising of a 7 day suspension regarding a breach of the current licensing conditions.

## 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.
Human Rights/Legal Implications	In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.  Whilst it is legitimate for councils to have

Determination of a Private Hire Driver's Licence  
Licensing Committee, Item 2

	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 On 18 September 2006 Patrick John Haynes, 9 Saddlers Close, St Michaels Mead, Bishops Stortford was issued with his first Private Hire Driver's Licence to drive on behalf of Checker Cars who are based at Stansted Airport. The licence expired on the 31 March 2007.
- 2 At the time of issue attached to that licence is a copy of the current conditions which a driver signs to acknowledge receipt and compliance with those conditions. As the licence is renewable on an annual basis Mr Haynes continued to hold that licence until the present day renewing from 1 April each year.
- 3 On 7 April 2010 Mr Haynes appeared before the Assistant Chief Executive Legal for making a false statement to renew his licence, failing to notify this authority having 3 penalty points endorsed on his driving licence for an offence of exceeding 30mph, and failing to notify this authority of his change of address. These matters were brought due to Mr Haynes failing to comply with the conditions of his Private Hire Driver's Licence. The Assistant Chief Executive found that there had been a breach of the conditions and imposed a 7 day driving suspension. This took place between 4 and 10 May 2010 inclusive. No appeal was made by Mr Haynes to HM Court Service against this decision.
- 4 On the 23 May 2011 Hertfordshire Constabulary sent correspondence to this Authority advising that Mr Haynes was to appear before East Hertfordshire Magistrates Court on 6 June 2011 charged with possession of a Class A controlled drug. Following this notification arrangements were made to

- interview Mr Haynes regarding this matter. Enquiries with HM Courts Service reveal that the case had been adjourned to 4 August 2011 for trial following a not guilty plea being entered to the charge.
- 5 On 19 July 2011 Mr Hayes attended the Council Offices, Saffron Walden where he gave an explanation which led to the information that was supplied by Hertfordshire Copnstabulary.
  - 6 During the evening of the 21 May 2011 Mr Haynes and three of his friends went into Bishops Stortford for a social drink to take his mind of the death of his mother whose funeral was scheduled to take place on 24 May 2011. It appears that they visited a number of public houses finally finishing up in The Black Lion Public House. In interview Mr Haynes admits to consuming between 7 and 8 pints plus having shots of liqueurs. He is unable to quantify the exact amount of alcohol he consumed that night.
  - 7 At about 1am the following day Mr Haynes went alone into the gents toilets at the premises and found a person who he knew outside one of the cubicles who gave him what he describes as a wrap. At that point the door staff employed at the premises suspected that a drugs deal may be taking place and asked both men to leave the premises. Mr Haynes admits that as he had done nothing wrong he began to argue with the door staff who called the Police.
  - 8 Hertfordshire Police duly attended the premises during which time the other person asked to leave had disappeared before the arrival of the Police. Mr Haynes was escorted from the premises and when outside he became argumentative after being refused re-entry. Upon arrival of the Police he admitted to the officers that he was in possession of a controlled substance which he believed to be cocaine, resulting in him being detained for a drugs search. He states that he handed the wrap to the officers who arrested him on suspicion of illegal possession of a controlled substance.
  - 9 He was conveyed to Hoddesdon Police Station where in interview he admitted being in possession of a controlled substance but denied he was dealing in drugs and that he had committed no offence as he had being given the substance whilst using the gents toilet at the public house. He remained in custody being released from the Police Station at about 12 midday.
  - 10 The substance was subsequently analysed by a Forensic Science Laboratory which confirmed the substance as being cocaine with the weight being 0.9 grams.
  - 11 On 4 August 2011 Mr Haynes appeared before East Hertfordshire Magistrates Court charged with the one offence of unlawful possession of a Class A controlled drug. He was represented by his Solicitor and following legal advice he changed his plea to one of guilty. In mitigation it was argued that he was not a drugs user himself, and that he had not purchased the drug or in actual fact used the drug whilst it was in his possession. It was further argued

that he retained the substance out of curiosity and nothing else and had he not consumed alcohol that evening then he would have immediately distanced himself from the other party whom he met in the toilet. His Solicitor sought to persuade the Court to impose a conditional discharge due to the very small quantity and to acknowledge the early guilty plea.

- 12 The Court imposed a fine of £350, ordering that he pays a £15 Victim Surcharge with costs amounting to £400. An order was also made for the destruction of the cocaine. The author of this report was present in Court when the fine and orders were made.
- 13 His current employer would still retain his services if no further action was taken by members of this Committee.
- 14 The Council has adopted standards which it expects drivers licensed by the Council to meet during the period a licence is held. Whilst each case will be dealt with on its individual merits, licence holders who cease to meet these standards are likely to have their licence suspended or revoked or not renewed on application. One of those standards is that the driver should have no criminal convictions which are not deemed spent within the meaning of the Rehabilitation of Offenders Act 1974. By virtue of his conviction Mr Haynes fails to meet this criteria.

### Risk Analysis

<b>Risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigating actions</b>
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 may cause damage to property, personal injury or even death.	Members revoke Mr Haynes licence unless they are satisfied that he remains a fit and proper person.

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.