

Determination of private hire/hackney carriage driver's licence

Licensing and Environmental Health Committee 14 September 2011, item 2

Committee: Licensing and Environmental Health
Committee

Agenda Item

Date: 14 September 2011

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

Author: Deborah Scales, enforcement officer (01799
510395)

Item for decision:
Yes

Summary

1. This report has been submitted for members to consider suspension or revocation of a Private/Hackney Carriage 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

2. The Committee determine whether the licence should be suspended or revoked.

Financial Implications

3. None. There are no costs associated with the recommendations.

Background Papers

4. 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.
 - a. Copy of conditions of private/hackney carriage driver licence.
 - b. Copy of licensing standards.
 - c. Copy of letter sent to Mr Walton (senior) from Mr Michael Perry, (Assistant Chief Executive, Legal of Uttlesford District Council), dated 28 February 2008.
 - d. Copy of email received from the complainant dated 21 July 2011.

Impact

- 5.

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper.
Equalities	None.

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Health and Safety	None.
Human Rights/Legal Implications	<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> <p>In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.</p> <p>Whilst it is legitimate for councils to have policies, they must not be rigidly bound by them and must be prepared to make exceptions to policy in appropriate circumstances.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Mr John Edward Walton (senior), of 59 High Street, Chrishall, Hertfordshire, SG8 8RN is currently licensed by Uttlesford District Council as a combined hackney carriage/ private hire driver. His driver's licence number is PH/HC/080 and the licence expires on 30 September 2011.
2. Mr Walton was first licensed on 9 August 1999 and is the proprietor of Hackney Carriage 31, registration, JW51 CAB licensed by this council.
3. On 28 February 2008, Mr Perry had cause to suspend the licence of Mr Walton (senior), for a period of four days. The suspension was due to an incident that occurred on 1 November 2007 on the M25 when the driver was accused of a similar allegation to the one now being considered, concerning dangerous driving and hand gesture.
4. On 21 July 2011, Uttlesford District Council's Enforcement Department received an allegation from a complainant which detailed an incident that took place on Friday 8 July 2011, by the driver of hackney carriage 31, registration, JW51 CAB .
5. The complainant stated that on her journey home from work on the 8 July 2011, she noticed hackney carriage 31, registration, JW51 CAB follow her

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from the vicinity of Stansted Mountfitchet, in a northerly direction toward Saffron Walden.

6. In the village of Stansted Mountfitchet, the complaint alleges that as she indicated to bear left into a side road, the driver of the vehicle in question attempted to undercut her to the left, but was not able to do so as other vehicles were blocking the path of the road. The complainant further stated that whilst she was looking at him in the rear view mirror she observed him give a hand gesture that she recognised to mean "Wanker".
7. The complainant alleges that the driver of Hackney Carriage 31, registration, JW51 CAB, allegedly continued to follow in very close proximity, until reaching the junction of the main road between Stansted and Ugley. At this point the complainant stated that she pulled on to the main road when it was safe to do so. However, the driver of the following vehicle emerged behind her quickly on to the same road although traffic was coming from either direction.
8. The complainant states that the driver continued to follow her and upon reaching the centre of Quendon village, which is a 30mph speed limit, he overtook her vehicle, the complainant then gave him a blast of her horn, the driver continued with his journey toward Newport.
9. In Newport, the complainant alleges that she could see the driver in question overtaking stationary vehicles and causing other drivers approaching from the opposite direction to swerve.
10. The complainant concluded that the driver in question turned around the corner and after coming under the bridge in Newport, accelerated and proceeded in the general direction of Cambridge. At this point the complainant lost site of the vehicle
11. Mr Walton (senior) attended the Council Offices on Wednesday 27 July 2011, to give his account of what happened on the day in question. Mr Walton (senior) confirmed that he had been driving the vehicle at the time of the incident and did not have a fare on board. When details of the allegation were given to Mr Walton (senior) he stated that at no time did he attempt to undercut any other vehicle in Stansted Mountfitchet or any where else. He advised he could recall driving behind a vehicle which kept braking, so he overtook the vehicle in Quendon and he then stayed behind three army vehicles, before they turned in Newport, heading in the direction of Carver Barracks. Mr Walton (senior) claimed he adhered to the speed limit at all times and he also said he did not do any hand gestures and cannot remember somebody sounding their horn at him. Mr Walton (senior) stated that he did overtake stationary cars in Newport village as this is something he always does and feels that there is adequate room for this manoeuvre unless a bus or coach is approaching.

Risk Analysis

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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 may cause damage to property, personal injury or even death.	Members consider whether Mr Walton Senior is a fit and proper person in the light of this second similar complaint received by the Council.

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.