

Committee:	Licensing and Environmental Health Committee	Agenda Item
Date:	28 August 2012	2
Title:	Determination of a Combined Private/Hackney Carriage 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 for any other reasonable cause.

Recommendations

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

Background Papers

E-Mail notification from Mr Sowerby owner of Stansted Airport Cars re incident at Bournemouth.

Copy of current combined Private/Hackney Carriage Hire Driver's Licence in the name of Besiki Akubardia.

Copy of the current combined Private/Hackney Carriage Driver Conditions in the name of Mr B Akubardia.

Letter of suspension to Mr Akubardia from Christine Oliva, Solicitor Litigation and Planning.

Copy of Fixed Penalty Ticket issued to Mr Akubardia

Letter from Professor P Orton regarding not meeting Group 2 Licensing Standards

Uttlesford District Council Medical Form

Medical report from Dr Marit Dunn dated 11th April 2012

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 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 9th May 2012 Besiki Akubardia, 216 Birchanger Lane, Birchanger, Bishops Stortford was issued with his first combined Private/Hackney Carriage Driver's Licence to drive on behalf of Stansted Airport Cars who are based at Stansted Airport. The licence is due to expire on the 30th April 2013.
- 2 In order to be granted a licence every applicant must meet the fit and proper criteria which does include being vetted by the Criminal Records Bureau at the enhanced level and meeting the Group 2 standards of medical fitness to drive in accordance with the best practice guide for licensing as laid down by the Department of Transport.
- 3 On 17th June 2009 members of this Committee were consulted on the governments proposed amendments to the best practice guide for the regulation of Taxi and Private Hire Licensing and following that consultation approved that this authority continue to apply Group 2 medical standards for all drivers.

- 4 On 11th April 2012 Mr Akubardia was passed fit to drive by Dr Dunn at Aviation Medica having met the relevant eyesight standards wearing contact lenses in both eyes. He had been seen previously on two occasions namely on 14th and 21st July 2011 and had not been passed fit to drive licensed vehicles by Professor Orton as he did not meet the Group 2 medical standards of fitness to drive due to the problem with his eyesight. He was referred to Moorfields Eye Hospital by Professor Orton for specialist advice.
- 5 On 30th July 2012 the Licensing Officer received a e-mail from the owner of Stansted Airport Cars reporting that he had suspended Mr Akubardia from driving any of his licensed vehicles for failing a roadside eyesight test conducted by Dorset Police. Following receipt of this information the Licensing Officer contacted Mr Akubardia and requested that he attends Aviation Medica forthwith.
- 6 On 31st July 2012 Mr Akubardia attended Aviation Medica and was seen by Professor Orton and following an eye examination it transpired that he did not meet Group 2 standards. Professor Orton did give medical advice to Mr Akubardia how to reach the required medical standards which is contained in his report to this authority.
- 7 On the 2nd August 2012 Mr Akubardia was interviewed by the Licensing Officer in the Council Offices, Saffron Walden where he gave an explanation that led to him being stopped by Dorset Police and the issue of a Fixed Penalty Ticket. This is set out in paragraphs 8 and 9 below.
- 8 At 3pm on 27th July 2012 he commenced duty at Stansted Airport Cars and his first job was to drive a passenger from the airport to Hanbury Manor in Hertfordshire. Having completed that job he was then directed to Bournemouth Airport to pick up 2 passengers and bring them back to Stansted Airport.
- 9 At about 8.30pm he collected his two passengers from Bournemouth Airport and commenced the return journey back to Stansted Airport when he was stopped by the Police on the A338 regarding the manner of his driving. Pc 1782 Adlam based at the Road Policing Unit Poole, Dorset was on duty riding his motor cycle when he had to take evasive action to avoid being in collision with the vehicle being driven by Mr Akubardia. The officer suspected that the driving was below the standard a normal motorist would undertake so he conducted a road eyesight test which Mr Akubardia failed. This resulted in the licensed vehicle being impounded and the driver being issued with a £60 Fixed Penalty Ticket. This offence does attract 3 penalty points on a DVLA UK Driver's Licence.
- 10 The Highway Code says that any driver must be able to read a vehicle number plate in good daylight from a distance of 20 metres and that if a driver needs to wear glasses or contact lenses then they must be worn at all times when driving. At the time Pc Adlam conducted the test Mr Akubardia

could only read the Police Motor Cycle number plate at a distance of 11.23 metres. He did admit to the officer that he was not wearing any lenses.

- 11 In the interview with the Licensing Officer he said that he was wearing the right contact lens but not the left eye contact lens when he was stopped by the Police.
- 12 Information concerning this incident was relayed to Stansted Airport Cars who then had to send 2 drivers and another vehicle to Dorset to recover their impounded vehicle and bring back Mr Akubardia to Stansted. In the interim period the company made arrangements to bring back the two passengers to Stansted Airport by engaging the services of a local taxi company rather than wait for the second Stansted Airport Cars vehicle to arrive.
- 13 It appears that Mr Akubardia has had eyesight problems since the age of 15 years and he has been seen at Moorfields Hospital in London and prescribed contact lenses as without corrected vision he would commit an offence of driving with defective eyesight contrary to Section 96 Road Traffic Act 1988. This incident has been reported to DVLA at Swansea by Dorset Police.
- 14 Further enquiries with Stansted Airport Cars reveal that the company have now dispensed with the services of Mr Akubardia.
- 15 Members should note that following notification of the incident involving Mr Akubardia and in the absence of The Assistant Chief Executive (Legal) Mrs Oliva used her delegated powers to suspend the Combined Private Hire/Hackney Carriage Driver's Licence pending the outcome of this meeting.

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 may cause damage to property, personal injury or even death.	Members revoke the licence held by Mr Akubardia 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.