

Committee: Licensing

Agenda Item

Date: 26 September 2013

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Title: DETERMINATION OF A PRIVATE HIRE
DRIVER'S LICENCE

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Item for decision

Summary

1. This report is to inform members of a breach of condition attached to a private hire driver's licence.

Recommendations

2. That the committee determines whether to revoke or suspend the driver's licence.

Financial Implications

3. None arising from this report.

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.
 - The driver's licensing file.

Impact

- 5.

Communication/Consultation	None.
Community Safety	The authority has a duty only to license drivers who are considered to be fit and proper.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Under the Local Government (Miscellaneous Provisions) Act 1976 councils may revoke or suspend a licence on a number of specified grounds (none of which are applicable in this case) or for any other reasonable cause. Where there are

	<p>grounds for believing that a driver is no longer a fit and proper person that would be a reasonable cause for revoking the licence. Where revocation is not necessary, a suspension may nevertheless be imposed as a sanction and deterrent consistent with the council's licensing policy.</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> <p>If the driver's licence is revoked or suspended the driver has a right of appeal to the Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. Mr Ian Southey has been licensed by Uttlesford District Council as a Private Hire Vehicle driver since 2008. His licence has been renewed annually since.
7. At the time his licence was granted his DVLA Driver's Licence disclosed three motoring convictions (one for failing to comply with a traffic signal and two for excess speed) all of which had expired.
8. On the 7 June 2010 Mr Southey received a Fixed Penalty Notice for excess speed. Under the conditions of his licence this should have been reported to the council within 7 days. Mr Southey did not report the conviction to the council until he applied to renew his licence on the 13 January 2011. I interviewed Mr Southey as a result of this breach of condition and suspended his licence for a period of two days.
9. On the 19 February 2011 (during the time within which the driver could have appealed against the suspension I had given him) Mr Southey again received a Fixed Penalty Notice for excess speed. He did not notify the council of this matter until the 24 January 2012, almost one year after the incident. In mitigation at the time he stated that there was some confusion as to whether he could attend a speed awareness course but he missed the cut-off date to accept that offer and had to take the points on his licence. He stated that it was due to absent-mindedness he forgot to inform the council.
10. I interviewed Mr Southey with regard to this matter and on the 2 February 2012 I suspended him for five days for the breach of condition on his licence.

11. On the 16 July 2013 Mr Southey received a further Fixed Penalty Notice for excess speed. He did not notify the council of this until the 6 August. On that date he emailed the council stating that he was giving notice of impending speeding points being added to his licence saying that he was sending his licence and payment on that day. The Licensing Department asked Mr Southey to specify the date upon which the Fixed Penalty Notice was issued and were informed it was issued on the 16 July. In mitigation, Mr Southey said that he believed that the date of conviction was the date the penalty points were endorsed on the licence and not the date the Fixed Penalty Notice was issued. However, the council's conditions of licence are quite clear that Fixed Penalty Notices must be notified to the council within seven days of the issue of the notice.
12. The council's Licensing Policy provides that where there have been two breaches of condition within a three year period any further breach should be dealt with by the committee. Technically, the driver falls just outside this requirement as the first breach of condition occurred more than three years ago in June 2010. However, as the driver has had 3 Fixed Penalty Notices in just over three years and has not notified the council of any of these as required by the conditions of the licence, I declined to deal with this by way of a suspension under delegated powers and have referred the matter to the committee for determination.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
An unsuitable person may be licensed to driver licensed vehicles	1, members have an awareness of what constitutes a fit and proper person.	3, permitting unfit persons to driver a private hire vehicle may put the public at risk.	If members are not satisfied that the driver remains a fit and proper person the licence should be revoked. If members are satisfied that the driver does remain a fit and proper person a suspension may be imposed by way of a sanction. In determining the length of any suspension members may have regard to the driver's previous history.

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.