

**Committee: LICENSING & ENVIRONMENTAL HEALTH**

**Agenda Item**

**Date: 16 October 2013**

**Title: EXERCISE OF DELEGATED POWERS**

**8**

**Author: Michael Perry, Assistant Chief Executive  
Legal, 01799 510416**

Item for decision

### **Summary**

1. This report is to inform members of the exercise of my delegated powers since the last meeting of this committee.

### **Recommendations**

2. That members note the contents of this report.

### **Financial Implications**

3. None.

### **Background Papers**

4. None.

### **Impact**

- 5.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Drivers who have their licences suspended have a right of appeal to the Magistrates' Court. In the event that an appeal is lodged they may continue to drive until such time as an appeal is abandoned or determined.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## **Situation**

6. Since the last meeting of this committee I have dealt with 9 drivers for various matters under delegated powers all relating to failing to notify the council of fixed penalty notices within 7 days of the same being imposed.
7. In 5 of those cases I suspended the licences for 5 days. In another case I suspended the licence for 3 days. The breach of condition occurred before the change in policy and the council were notified of the fixed penalty notice before the change in policy (albeit late). Had the matter been drawn to my attention at the time 3 days would have been the appropriate suspension and it was wrong to penalise the driver because the matter only came to my attention after the policy had changed. In 2 further cases there were strong mitigating factors and 2 day suspensions were imposed. In the final case I took no action as I was not satisfied that a breach of condition had actually occurred.
8. In another case I declined to deal with a breach of condition of failing to notify a fixed penalty notice within 7 days under delegated powers due to aggravating features and I referred the case to the Committee. The driver's licence in that case was suspended for 14 days and a warning given that any further breaches of condition would be likely to lead to his licence being revoked.
9. The period covered by this report covers the busiest time of the year for licence renewals. It is to be expected therefore that more breaches of condition will come to light during this period than at quieter times of the year. It is interesting to note that in the corresponding report in October 2012 I reported that I had dealt with 15 drivers, 6 more than for the same period this year. However of those cases 6 were concerned with minor offences which at that time were dealt with by a suspension. This means that the number of drivers failing to notify fixed penalty notices as required has remained unchanged for the same period in 2013 as in 2012.
10. Under the current policy drivers who commit offences are dealt with under the criminal justice system. Usually for a first offence this would involve a caution although if there are aggravating factors a prosecution may be authorised for a first offence. All such matters are reported to Committee as the existence of a caution or pending prosecution takes the licence holder out of our licensing standards and members therefore need to consider in each case whether the driver/operator remains a fit and proper person.
11. Since the date of my last report there have been no formal cautions administered. I have authorised 3 prosecutions, one of an operator for using an unlicensed driver (the Committee has revoked the operator's licence); one of a driver witnessed by an enforcement officer using a mobile telephone whilst driving and a third for making a false statement to obtain a licence. These prosecutions are all currently pending.

## **Risk Analysis**

12. There are no risks associated with this report.

