

Committee: Licensing and Environmental Health

Agenda Item

Date: 4 March 2014

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Title: **Determination of a Private Hire/Hackney Carriage Drivers Licence**

Author: Matthew Chamberlain, Enforcement Officer,
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Item for decision:

Summary

This report has been submitted for members to consider revocation of a Private Hire/Hackney Carriage Drivers Licence in accordance with section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 under the heading any other reasonable cause as he has been disqualified from driving.

Recommendations

The committee determine whether Mr Yardley should have his private hire/hackney carriage driver's licence revoked.

Financial Implications

None arising from this report

Background Papers

1. 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. Uttlesford District Council licensing standards for drivers.
 - b. Witness statement of Gordon Wallace dated 3 July 2013.
 - c. Transcript of Interview Under Caution dated 22 July 2013.

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.
Health and Safety	None.
Human Rights/Legal Implications	Under section 61 of the LG(MP)A district councils may suspend or revoke a drivers licence for:

	<p>(a) Having been convicted of one of a range of specified offences since the grant of the licence or</p> <p>(b) Any other reasonable cause</p> <p>In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Mr Simon Yardley of 57 Birchwood, Birchanger, Bishops Stortford, Hertfordshire, CM23 5QL currently holds a Uttlesford District Council private hire/hackney carriage drivers licence and is currently employed by Elsenham Taxis. He first became a licensed driver with this Authority on 25 May 2012 and his current licence is due to expire on 30 June 2014.
2. On the renewal of Mr Yardley licence dated 7 June 2013 his DVLA counterpart licence shows that his counterpart driving licence was endorsed with nine penalty points on his licence. Three of the penalty points were for the use of a mobile phone whilst driving in June 2011. The other six penalty points were received for two separate occasions of speeding in March and May 2012.
3. On Monday 1 July 2013 Gordon Wallace, Enforcement Officer was at the junction of the High Street and George Street, Saffron Walden when he saw an Elsenham Taxis vehicle approach the junction and stop at the traffic lights which were red. Mr Wallace witnessed the driver using a mobile phone in his right hand. When the lights turned green the vehicle turned left into Abbey Lane and Mr Wallace noted the driver was still using the mobile phone. Mr Wallace noted the time as 13.28 hours by his watch. The vehicle that the driver was driving was hackney carriage 29.
4. Gordon Wallace contacted Andrew White the manager at Elsenham Taxis on 3 July 2013 who told him the driver of the vehicle at the time of the incident was Mr Yardley.
5. On 22 July 2013, Mr Yardley attended an Interview Under Caution (IUC) conducted by Matthew Chamberlain and Deborah Scales, Enforcement Officer. Mr White explained that Elsenham Taxis regularly pick up a customer from Benten and Co in Saffron Walden and conveys the passenger to Bishops Stortford four days a week at 13.20 hours. Mr Yardley does not normally carry out this journey but was covering the job on this day. Mr Yardley maintained at 13.28 hours he would have been in the Newport area as he picked the customer up at 13.20 hours and therefore did not admit the offence.

6. The Council decided to commence prosecution proceedings against Mr Yardley for the offence of using a hand held mobile telephone whilst driving a motor vehicle contrary to Regulation 110 Road Vehicles (Construction and Use) Regulations 1986/1078.
7. Mr Yardley appeared at Chelmsford Magistrates Court on Wednesday 12 February 2014 and although Mr Yardley pleaded not guilty the Magistrates found him guilty of the offence. Mr Yardley was disqualified from driving for 6 months under the totting up procedure and fined £125 for the offence and ordered to pay full costs of £900.11 and a victim surcharge of £20.
8. Mr Yardley does not meet our standards as he has been disqualified from driving. He will not meet our standards until 3 years after the disqualification expires or 12 months after the licence is re-issued whichever is later.
9. Paragraph 6.16 of the council's Licensing Policy Relating to the Hackney Carriage and Private Hire Trades provides that "where a matter has been dealt with through the criminal justice system it is the view of the council that a suspension of the licence would rarely be suitable. Any punishment which the offender deserved would have been imposed by the courts and a further punishment by way of suspension (which would cause loss of income) would be inappropriate. However, the Licensing & Environmental Health Committee should consider whether in the light of a conviction or a caution the driver or operator remains a fit and proper person to hold a licence. If the Committee is not satisfied that the driver or operator does remain a fit and proper person, then the licence should be revoked."
10. With regard to the offence Mr Yardley has been punished by the Magistrates Court. The issue for members to determine therefore is whether in the light of his conviction and his disqualification from driving, he remains a fit and proper person. If the committee are so satisfied then it should take no action with regard to the conviction. If the committee are not satisfied Mr Yardley is a fit and proper person the appropriate course of action is to revoke the licence in accordance with the policy.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unfit person is authorised to drive a private	1- Members have an awareness of	4- Permitting a person who does not meet	Members consider whether Mr Yardley remains a fit and

hire/hackney carriage vehicle in the district.	what constitutes a fit and proper person.	the licensing standards to drive a private hire/hackney carriage vehicle may put the public at risk.	proper person to retain his private hire/hackney carriage driver's licence now he has been disqualified from driving.
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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.