

Committee: Licensing and Environmental Health

Agenda Item

Date: 06 May 2014

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

Author: Matthew Chamberlain, Enforcement Officer,
(01799 510326)

Item for decision:

Summary

This report has been submitted for members to consider suspension or revocation of a Private Hire/Hackney Carriage Drivers Licence in accordance with section 61(1)(a)(ii) Local Government (Miscellaneous Provisions) Act 1976 under the heading that since the grant of the licence they have failed to comply with part of this Act.

Recommendations

The committee determine this whether Mrs Excell should have her 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. Suspension letter to Mrs Excell from the Assistant Chief Executive Legal dated 16 January 2012.
 - c. Essex County Council Contract Management Team Inspection Report Form dated 4 October 2013.
 - d. Transcript of Interview Under Caution on 5 November 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	<p>Under section 61 of the LG(MP)A district councils may suspend or revoke a drivers licence for:</p> <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. Mrs Pauline Excell of 3 Church Housen, Chelmsford Road, Great Waltham, Essex, CM3 1AP is currently a licensed private hire/hackney carriage driver and her badge number is 494. She first became a licensed driver with this Authority on 1 September 2011 and her current licence is due to expire on 31 August 2014. Mrs Excell is currently employed by Excellent Connections Limited T/A Fargolink to primarily carry out school contract work.
2. On 25 July 2011 Mrs Excell was caught using a mobile whilst in charge of a vehicle by two police officers and was offered a fixed penalty notice which she declined. On 8 December 2011 Mrs Excell was convicted for this offence at Court after pleading guilty and received a fine of £73 plus court costs and had three penalty points endorsed on her licence. She failed to disclose to the Council that her licence had been endorsed with penalty points within seven days and was subsequently interviewed by the Assistant Chief Executive Legal regarding this matter on 16 January 2012. During the meeting it became apparent that Mrs Excell had committed further breaches of her licence as she failed to notify the Council of a road traffic accident and that she made a false statement to renew her licence because she did not notify the Council of the impending prosecution for the mobile phone offence and he decided to suspend her licence for a period of two days.
3. On 4 October 2013 Mrs Excell was carrying out Essex County Council school contract OS0029 at Mildmay Infants/Juniors School in Essex. Mrs Excell was driving private hire vehicle 818 when she was stopped by an Essex County Council Officer for a routine inspection. During the inspection, private hire vehicle 818 was found to be displaying a private hire vehicle plate which expired on 31 August 2013.

4. Using a private hire vehicle whilst failing to display a valid private hire vehicle plate is an offence under section 48(6) Local Government (Miscellaneous Provisions) Act 1976 which carries a maximum fine of £1000 upon conviction.
5. On 5 November 2013, Mrs Excell attended the Council Offices in Saffron Walden for an Interview Under Caution (IUC) into the offence of using a private hire vehicle whilst failing to display a valid private hire vehicle plate and this was conducted by two Enforcement Officers. Mrs Excell confirmed she was driving the vehicle in question on the day that it was stopped and was going to pick up children. Mrs Excell knew there was a plate on the vehicle and that had been on there for two years but did not know that there was an expiry date. She claimed that she picked up the vehicle on 2 September 2013 and checked the tax disc but did not know the plate was her responsibility even though she takes it home after using it for work. Mrs Excell confirmed that she had been using the vehicle for three to four years for school contracts but only had the plate for two years and a check of the Council records shows it was licensed on 5 September 2011. Mrs Excell explained that after she was stopped she went to the offices of Excellent Connections Limited T/A Fargolink and got her new plate fitted but claimed that she felt having the plate on was not his responsibility but Fargolink's instead especially as she takes the vehicle into the head office weekly for a check. When Mrs Excell was asked whether she accepted the offence she explained that she felt she had to but did not realise it was an offence.
6. In accordance with the Council's licensing policy surrounding the private hire and hackney carriage trade when an offence is committed under the legislation then the Council should impose a sanction. The Council deemed it in the public interest to seek to prosecute Mrs Excell for the offence of using a private hire vehicle whilst failing to display a valid private hire vehicle plate.
7. Mrs Excell appeared at Colchester Magistrates Court on 8 April 2014 for the alleged offence and pleaded guilty. She was fined £90 with a victim surcharge of £20 and ordered to pay costs of £50.
8. Mrs Excell does not currently meet the Council's licensing standards as she has received a conviction which is not spent under the Rehabilitation of Offenders Act 1974.
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."

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unsuitable person may be licensed to drive licensed vehicles.	1- Members have an awareness of what constitutes a fit and proper person.	4- Permitting unfit persons to drive a private hire/hackney carriage vehicle may put the public at risk.	Members consider whether the driver is a fit and proper person as Mrs Excell has been convicted of an offence in relation to this part of the Act.

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.