

Committee: Licensing and Environmental Health

Agenda Item

Date: 4 March 2014

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Title: **Determination of a Private Hire Operators Licence**

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 Operators Licence in accordance with section 62(1)(a) Local Government (Miscellaneous Provisions) Act 1976 under the heading “an offence under, or non-compliance with, the provisions of [Part II of the Act]” and/or under s.62(1)(b) “any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator’s licence” and/or under s.62(1)(d) “for any other reasonable cause”.

Recommendations

The committee determine whether the operator should have their private hire operator’s licence suspended or 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 Private Hire Operator Conditions.
 - b. Witness statement from Transport Monitoring Inspector.
 - c. Email between Murray Hardy and Car Service Travel Limited.
 - d. Transcript of IUC with Mr Alam dated 24 January 2014.
 - e. Transcript of IUC with Mr Lawson dated 29 January 2014.

Impact

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence operators who are considered to be fit and proper.
Equalities	None.

Health and Safety	None.
Human Rights/Legal Implications	<p>Under section 62 of the LG(MP)A district councils may suspend or revoke an operators licence for</p> <p>(a) any offence under, or non-compliance with, the provisions of this Part of this Act;</p> <p>(b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;</p> <p>(c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or</p> <p>(d) any other reasonable cause.</p> <p>In the event of a licence being suspended or revoked than an individual has the right of appeal to a Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Car Service Travel Limited is a private hire company which specialises in school contract work and their operating address is Unit 10 Heathview, Pond Lane, Hatfield Heath, Bishops Stortford, Hertfordshire, CM22 7AB. It was first granted a private hire operator licence by Uttlesford District Council on 15 December 2011 and its current licence is due to expire on 30 November 2014.
2. The Company has one current Director and James Lawson who is not a current Director has control of the day to day running of the business.
3. Car Service Travel Limited currently has 16 licensed vehicles and 15 licensed drivers with this Authority.
4. On 27 November 2013, a Transport Monitoring Inspector for Essex County Council carried out a stop check at Pinewood School in Ware to monitor an Essex County Council school contract. He stopped Uttlesford Private Hire vehicle 1063, a black Vauxhall Zafira registration number KN53 ZSE, which at the time was being driven by a driver who identified himself as Mohammed Alam. Mr Alam did not have a driver's badge with him but had an escort who identified herself and confirmed that she was employed by Car Service Travel Limited.

5. Subsequent checks of the licensing records show that Mr Alam was licensed with this Authority from 3 October 2008 until 5 October 2009 when it was cancelled as he did not renew it.
6. At 13.08 hours on 6 January 2014 two Enforcement Officers attended the operating address of the company in Hatfield Heath. There was no sign advertising Car Service Travel Limited at the address but just a sticker on the door which read 'no callers unless by appointment' and there were no licensed vehicles at the address. A lady came out of a neighbouring unit and explained that she has been there since the previous August but has never seen anyone visit the unit but understands it to be a taxi company.
7. On 7 January 2014 Murray Hardy the Licensing Officer received an application for a replacement vehicle from a company called RTA Chief Car Rentals on behalf of Car Service Travel for private hire vehicle 1063. Mr Hardy emailed Car Service Travel Limited that day to enquire whether the vehicle was involved in an accident and received a response the following day to confirm that the vehicle was involved in an accident. The email confirmed that the accident occurred on 5 December and the driver was Mr James Lawson and the vehicle was stationary at the time. Car Service Travel Limited have failed to submit an accident report form to the licensing department for the accident and only found out about this via a third party.
8. Members are reminded that it is the responsibility of a proprietor of a private hire vehicle to report "damage materially affecting the safety, performance or appearance of the hackney carriage or private hire vehicle or the comfort or convenience of persons carried therein." Failure to do this is an offence under section 50(3) Local Government (Miscellaneous Provisions) Act 1976. Car Service Travel Limited has clearly committed this offence.
9. Mr Alam attended the Council Offices on 24 January 2014 and for an Interview Under Caution (IUC) with an Enforcement Officer and the Enforcement Team Leader, and he explained to them that he is a licensed private hire driver with Harlow Council. He told the officers that he did drive the Uttlesford Licensed private hire vehicle on 27 November 2013 on behalf of Car Service Travel Limited. Mr Alam stated that the usual driver was unwell and Mr Ashman requested that he do the school run in both the morning and afternoon which he did and he claims he was paid £40 for the job.
10. On 29 January 2014 Mr Lawson attended an IUC conducted by an Enforcement Officer and the Enforcement Team Leader. The IUC started at 11.41 hours. Mr Lawson confirmed that Car Service Travel Limited had been running for 30 years first of all licensed with Epping Council before being licensed by Uttlesford District Council two years ago. He confirmed that he was a Director until last year and his daughter is the sole Director. He has managerial responsibility for the business and his daughter has given him permission to sign documents on behalf of the company. Mr Lawson confirmed that Car Service Travel Limited operate from Unit 10 Heathview, Pond Lane, Hatfield Heath and that the records of bookings are kept there. When asked why the Enforcement Officers were unable to gain access to the office he said it is not manned 24 hours a day seven days a week, but instead

for about one and a half hours three times a week. Mr Lawson confirmed that he knew Mr Alam and he had driven on one occasion for Car Service Travel Limited in an Uttlesford licensed private hire vehicle in November 2013. Mr Lawson told the officers that he was aware Mr Alam was not licensed by Uttlesford District Council and was only licensed by Harlow Council. Mr Lawson explained that the driver who usually drives this vehicle was not available so Mr Lawson asked could he do the job and when he confirmed that he was available Mr Lawson dropped the private hire vehicle off to him. Mr Lawson confirmed that Mr Alam did the school contract on both the morning and afternoon of 27 November 2013. It was queried with Mr Lawson whether the Director of the company was told Mr Alam would be doing the school run and he explained that he notified her between 1.30pm-2pm that day before the afternoon school run. Mr Lawson was also questioned regarding the failure to report the accident involving private hire vehicle 1063 on 5 December 2013. He said that the licensed vehicle was parked at the side of the road by the office compound after he had driven it there. A car then hit the licensed vehicle from the rear and according to Mr Lawson caused damage to the bumper and tow bar. He told the officers that it was his fault that the accident had not been reported but this was due to his heavy workload. He claimed that he did not know where to get an accident report form from. The IUC finished at 12.00 hours.

11. In the opinion of the Assistant Chief Executive Legal it is in the public interest to prosecute Car Service Travel Limited two offences under the Local Government (Miscellaneous Provisions) Act 1976. One is for the offence of operating a Private Hire Vehicle with an unlicensed driver which carries a maximum penalty of £1000 upon prosecution and the other of failing to notify the Council of an accident which also carries a maximum penalty of £1000. As the company has pending prosecutions against them then they fall below the Council's licensing standards for private hire operators.
12. The Council's Licensing Policy Relating to the Hackney Carriage and Private Hire Trades provides at paragraph 6.12 "With regard to operators the Council recognises that the suspension of an operator's licence, even for a short period of time, is likely to be disproportionate. It is also likely to impact upon innocent parties as the effect of a suspension of the operator's licence is to deprive the drivers working for that operator of an income for the period of the suspension. The Council's policy is therefore that where an operator has committed an offence a suspension should not be imposed and a prosecution should be brought even for a first offence." The prosecution authorised by the Assistant Chief Executive – Legal is consistent with this policy. It does however leave the question for members to determine as to whether the company remains fit and proper to hold an operator's licence.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unfit person is authorised to operate a private hire company in	1- Members have an awareness of what	4- Permitting unfit persons to operate a private hire	Members consider whether Car Service Travel Limited remains fit and proper

the district.	constitutes a fit and proper private hire operator.	company with unlicensed drivers may put the public at risk.	to retain their private hire operator's licence in the light of their pending prosecution.
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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.