

Committee: Licensing & Environmental Health

Agenda Item

Date: 9 July 2014

7

Title: EXERCISE OF DELEGATED POWERS

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

Item for information

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 content 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 had 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 unless the suspension has been imposed with immediate effect in the interest of public safety.
Sustainability	None.
Ward-specific impacts	None.

Workforce/Workplace	None.
---------------------	-------

Situation

6. Since the last meeting of this committee I have interviewed 14 drivers for various matters.
7. Eight drivers were interviewed on suspicion of failing to inform the council of a conviction or fixed penalty notice within seven days. I took no action in one case as on the facts there had been no breach of condition. In four cases, in the absence of mitigating or aggravating factors I imposed a suspension of five days consistent with the council's policy. A further three cases, I suspended the licence for three days only. These three drivers had mitigating factors. One volunteered the information to the council only just outside the seven day limit for reporting the fixed penalty notice. Another would have suffered great hardship with a longer suspension. The third volunteered the information to the council promptly upon the return of the licence from the Court with the points endorsed.
8. One driver failed to notify the council of a change of address and another failed to notify the council he had been involved in an accident. There were no mitigating or aggravating factors and I therefore suspended both of these drivers for five days.
9. One driver was seen by me by following an allegation that he had behaved inappropriately to a member of the public. I interviewed the driver who denied the allegation. In the light of the conflict of evidence, the complainant was asked whether or not she was prepared to appear before the committee so that committee could evaluate the evidence. The complainant declined to do so and I therefore closed the complaint without taking action.
10. I suspended three drivers with immediate effect in the interest of public safety. All three drivers were engaged in school contract work.
11. With regard to the first of these there was an allegation that the driver had held a child in his care against a wall and shouted at him. The driver concerned appeared before the committee which suspended his licence again with immediate effect in the interest of public safety until the licence expired. I was given delegated authority in consultation with the chairman to lift the suspension if following an investigation by Essex County Council I was satisfied that the driver was a fit and proper person. No evidence has been forthcoming from the driver to date and the licence therefore remains suspended.
12. In another case the driver was alleged to have struck a school child who was a passenger in his vehicle. The matter referred to the committee who again suspended the licence with immediate effect in the interest of public safety until the licence expired. An application to renew the licence was also refused. I had been given delegated authority to remove the suspension and to renew the licence in consultation with the chairman if I am satisfied that the driver is a

fit and proper person. The driver has not supplied any further evidence to date and the licence therefore remains suspended.

13. Finally, I suspended a driver with immediate effect in the interest of public safety who was stopped by the Police driving at speeds in excess of 95 mph with a school child on board. It is understood the driver will be prosecuted for that offence but the nature of his driving was such that I felt the suspension was necessary. At the date of the preparation of this report, the committee has yet to meet to determine what further action (if any) to take with regard to this driver's licence.

Risk Analysis

14. There are no risks associated with this report.