



Uttlesford District Council

Chief Executive: John Mitchell

Licensing and Environmental Health

Date: Wednesday, 04 March 2015
Time: 18:00
Venue: Committee Room
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors H Asker, J Davey, J Freeman, E Hicks, J Loughlin, D Morson, D Perry (Chairman) V Ranger, J Salmon, A Walters, L Wells

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days prior notice.

AGENDA PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest.
- 2 Determination of a Private Hire/Hackney Carriage Drivers Licence - 5 - 12
Mr Browning

PART 2 Exclusion of the Public and Press

Consideration of an item containing exempt information within the meaning of paragraphs 1 and 2 of schedule 12A of the Local Government Act 1972

- 3 Determination of a Private Hire Drivers Licence

MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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Telephone: 01799 510433, 510369 or 510548

Email: Committee@uttlesford.gov.uk

General Enquiries

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Website: www.uttlesford.gov.uk

Committee: Licensing and Environmental Health

Agenda Item

Date: 4 March 2015

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Title: **Determination of a Private Hire/Hackney Carriage Drivers 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/Hackney Carriage drivers licence in accordance with section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 under the heading "for any other reasonable cause."

Recommendations

The committee determine whether the individual should have their private hire/hackney carriage driver'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 licensing standards for drivers.
 - b. Email from Mr Browning dated 18 February 2015.

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: (a) That since the grant of the licence he has-

	(i) been convicted of an offence involving dishonesty, indecency or violence; or (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of the Act; or (b) any other reasonable cause.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Ray George Browning of 43 Grapnells, Vange, Basildon, Essex, SS16 4LT currently holds a private hire/hackney carriage drivers licence with Uttlesford District Council (PH/HC0172). He was first granted a licence on 5 July 2010 and his current licence is due to expire on 30 June 2015.
2. Licensing records indicates that he carries out work on behalf of 24x7 Limited doing school contract work.
3. At Mr Browning's last renewal for his licence in 2014, he produced a copy of his DVLA counterpart which showed that his licence was endorsed with three penalty points and a £60 fine for an offence on 20 November 2012. The offence would stay on his licence for four years and therefore will not drop off his licence until 20 November 2016.
4. On 18 February 2015, the Council received an email from Mr Browning who was notifying the Council that he had received a fixed penalty notice of six points on 12 February 2015 for failing to be able to identify who was driving a licensed vehicle belonging to 24x7 Limited. This was in relation to an offence of speeding on 25 January 2014. A member of the Council's Licensing Department contacted 24x7 Limited who explained that they had been contacted by Essex Police and identified the driver as Mr Browning.
5. An Enforcement Officer spoke to Mr Browning on 20 February 2015 and he explained that two letters were apparently sent to him by Essex Police but he failed to return them which is the reason he was summoned to the Magistrates Court. Mr Browning claimed that he never received the letters and if he did he would have completed them and returned them straight away. The court case was heard at Basildon Magistrates Court and in addition to Mr Browning receiving the six penalty points he was fined £250 and ordered to pay costs which together came to £403. He said that when he received his court summons there was already a fine of £750 plus costs along with the six penalty points endorsement, although the fine was reduced at Court due to Mr Browning's mitigation.

6. Mr Browning now cumulatively has a total of nine penalty points on his driving licence as a result of this endorsement.
7. As Mr Browning has received six penalty points on one occasion he falls below the standards for licensed drivers. The driver's standard number two reads 'no convictions or fixed penalty notices endorsed on a drivers licence within the last three years where six or more points have been endorsed in respect of a single offence.' Mr Browning now appears before members to consider whether he remains a fit and proper person to retain his private hire/hackney carriage driver's licence.
8. At the time of writing it was unknown whether 24x7 Limited would still wish to retain Mr Browning's services as a driver.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unfit person is authorised to drive members of the public in a licensed vehicle.	1- Members have an awareness of what constitutes a fit and proper person to drive a private hire vehicle.	4- Permitting unfit persons to drive licensed vehicles may put the public at risk.	Members consider whether Mr Browning remains fit and proper to retain his private hire driver's licence as he has received six penalty points on one occasion. If members do find him fit and proper they need to find good reasons to depart from the licensing policy.

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.

APPENDIX A

LICENSING STANDARDS – DRIVERS

1. No more than 9 points endorsed on a driver's licence within the last 3 years.
2. No convictions or fixed penalty notices endorsed on a driver's licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence.
3. Where a driver has been disqualified from driving for any reason a licence will not normally be granted for 3 years after the disqualification has expired or 12 months after the date the driver's licence is re-issued whichever is the later.
4. For the purposes of paragraph 3 above where a driver has accumulated 12 or more points in a 3 year period but has not been disqualified at the discretion of the court he or she will be deemed to have been disqualified at the date of the hearing when the magistrates exercised their discretion not to disqualify and the deemed disqualification shall be taken as having expired on that date.

And (save for limited licences as referred to in paragraph 2.5 of the policy):-

5. No criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed
6. No criminal convictions within the last 5 years for an offence of dishonesty, indecency or violence in respect of which a non-custodial sentence was imposed
7. No other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974.
8. No conditional discharges for any offence within the last 12 months.
9. No official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months.
10. No pending prosecutions for any criminal or motoring offence.
11. Not to have had a hackney carriage and/or private hire driver's licence revoked within the last 3 years.
12. To meet group 2 medical standards as published by the Department of Transport.

13. To have a reasonable command of the English language sufficient to enable the driver to perform the functions of a hackney carriage/private hire driver

Samantha Mann

From: Redacted
Sent: 18 February 2015 21:52
To: Licensing
Subject: fixed penalty

Dear Sir/Madam

My name is Ray Browning license no PH/HC172 I have received a fixed penalty notice of 6 points on 12/2/2015 for failing to be able to identify who was driving a 24/7 vehicle, the incident happened 25/1/2014, I went to court as I had not received any letters or notification from 24/7 that there was a speeding offence for this incident against me, I would have been ready and been able to answer about the incident, I said to the magistrate if I had received these letters I would have answered them straight away and not let it get to this stage the 6 points were mandatory as I was unable to identify who was driving,

yours sincerely
Ray Browning

