

**Committee: LICENSING**

**Agenda Item**

**Date: 9 September 2015**

**8**

**Title: ENFORCEMENT**

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Item for information

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## Summary

1. This report is to inform members of enforcement action taken since the last report to this committee.

## Recommendations

2. That members note the contents 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	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

6. Since this committee's last usual meeting on the 4 March 2015, I have dealt with 27 drivers under delegated powers.

7. Fifteen of these cases involved drivers failing to notify the council of fixed penalty notices in writing in 7 days as required by the conditions of the licence. Two drivers were given suspensions of 14 days as the suspensions would have had no financial impact merely causing an inconvenience. One driver received a suspension for 10 days for breach of this condition as he had failed to inform the council of two fixed penalty notices. Nine drivers received five day suspensions. This is the starting point set by the council's policy. In all of these cases there were no aggravating or mitigating factors which would justify departure from that starting point. One driver was suspended for three days as he volunteered the information before his licence was due for renewal. Two further drivers were suspended for two days. One of these had taken a speed awareness course in lieu of paying the fixed penalty and did not realise that the fixed penalty notice still had to be notified to the council. The other driver volunteered the information reasonably quickly after the points were endorsed on his licence and a longer suspension in his case would have caused unjustifiable hardship.
8. Two drivers had failed to notify the council of convictions as required by the conditions on the licence. One of these was suspended for five days, there being no aggravating or mitigating factors in his case, the other was suspended for ten days. The reason for the longer suspension in this case was that there were two separate prosecutions for three offences none of which were notified to the council. I would inform members that in the case of both of these drivers their convictions do not take them outside of the council's policy as to who may be considered to be a fit and proper person.
9. One driver was suspended for ten days for failing to notify the council of an accident. The driver in this case had been suspended previously for a breach of a condition on his licence. He was given a very clear warning that a further breach of condition would be likely to result in an appearance before the committee to determine whether the committee was satisfied that he remained a fit and proper person. The council's policy states that where a driver has committed three offences or breaches of conditions within a three year period, that he or she should appear before the committee so that committee may satisfy itself that the driver remains a fit and proper person.
10. One driver was suspended for five days for failing to display the vehicle's licence plate. Another driver was suspended for two days for failing to notify the council of a change of address. The mitigating factors in his case were that he had observed that condition previously; at the time he moved addresses he was under a great deal of stress due to a serious medical condition of a close relative and his level of income was such that a longer suspension would have caused disproportionate hardship.
11. I dealt with one driver for poor driving. He was witnessed driving at excess speed and failing to stop at a red traffic signal. I suspended him for three days. Having regard to the fixed penalty notice he would have suffered had he been detected by the police a longer suspension would have been disproportionate.
12. I suspended the licences of two drivers with immediate effect in the interest of public safety. One of these had been arrested for an alleged offence of drink driving. He was subsequently convicted of this offence and was disqualified from driving. The other driver was arrested on suspicion of an offence of indecency. He subsequently surrendered his licence to the council and no further action was therefore necessary.

13. The council operates a policy of accepting DBS checks on an application for a licence providing that they are not more than 18 months old and the driver makes a statutory declaration to the effect that the DBS check which will be undertaken by the council will not reveal any matters not disclosed by the DBS check which he produces. Where a driver makes a false statutory declaration I have power to revoke licences and the form of statutory declaration used carries a clear warning to the effect that a false declaration may lead to a prosecution and to the licence being revoked. A driver applied to the council for a licence under this policy which was granted. When the up to date DBS check was received it revealed that the driver had been cautioned for a public order offence within the previous 12 months. The driver had not declared that caution to the council and a caution within the previous 12 months means that he did not meet the council's licensing standards in any event. I therefore revoked his licence with immediate effect. The driver has been prosecuted for an offence of making a false statement to obtain a licence.
14. Three new applicants for licences did not meet the council's licensing standards. Two had received six points or more for a single motoring offence and the other had received a custodial sentence for an offence of dishonesty which was not deemed spent under the Rehabilitation of Offenders Act. In none of these cases were there any extenuating circumstances which I believe may have led the committee to make an exception to the council's policy and I therefore refused all three licences.
15. In addition to the use of delegated powers the Enforcement team have cautioned three drivers for minor offences. Two drivers have been prosecuted. One was for making a false statement. He was fined £37 and ordered to pay a victim surcharge and costs of £469.90. The other pleaded guilty to an offence of failing to notify the council of the involvement of her vehicle in an accident within 72 hours. She was fined £37 and ordered to pay a victim surcharge of £20 and costs of £200. Both parties were unemployed at the time of the hearing hence the very low level of the fines. Currently there are six pending prosecutions, two for failing to display No Smoking stickers in a vehicle, two for making false statements to obtain a licence, one for failing to notify the council of an accident within 72 hours and one for parking on a taxi rank.
16. The Enforcement team have also taken part in joint operations with the police to check licensed vehicles. Thirty-eight fixed penalty notices have been issued for environmental offences totalling £4,590 most of which have been paid. These penalties are ring-fenced for the purposes of the enforcement service.

## **Risk Analysis**

17. There are no risks arising from this report.