

Committee: LICENSING & ENVIRONMENTAL HEALTH

Agenda Item

Date: 2 December 2015

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**Title: DETERMINATION OF A PRIVATE
HIRE/HACKNEY CARRIAGE DRIVER'S
LICENCE**

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510578**

Item for decision

Summary

1. This report is to inform members of an application for the grant of a joint private hire/hackney carriage driver's licence.

Recommendations

2. The committee determine this application

Financial Implications

3. None arising from this report.

Background Papers

4. The following papers were referred to by the author in the preparation of this report.
 - Application form
 - Driving licence check.

Impact

- 5.

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper persons.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Members are obliged to grant a licence to an applicant who holds a full current driving licence and to have held one for at least 12 months but must not grant a licence unless they are satisfied that the applicant is a fit and proper person.

	<p>Whilst it is legitimate for councils to have policies, they must not be rigidly bound by them and must be prepared to make exceptions to policy in appropriate circumstances.</p> <p>If members refuse the application the applicant has a right of appeal to the Magistrates' Court. As the applicant has not previously been licensed he may not drive as a private hire vehicle driver pending the determination of the appeal.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

6. Albert Sinkia has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form Mr Sinkia disclosed a conviction for an offence of excess speed. Mr Sinkia said that the offence was committed in October 2013 but the date of conviction was the 1 May 2014. Mr Sinkia states that he was stopped by police driving at 68 mph in a 40 mph zone. On appearance before the magistrates his licence was endorsed with 6 penalty points and he was fined £300.
7. Mr Sinkia states that the offence was committed at 1.30 a.m. on an industrial estate in Stevenage. He was driving a private hire minibus and had just dropped off some passengers. At the time of the offence his wife was pregnant with their third child. Mr Sinkia states that his wife had had difficulties with her first two pregnancies. She telephoned him and told him that she was experiencing pains. Mr Sinkia exceeded the limit to go home to take her to the hospital. He was stopped by the police en route. He explained the situation to the police who dealt with matters as quickly as possible to get him on his way.
8. By virtue of receiving 6 penalty points for a single offence, Mr Sinkia does not meet the council's licensing standards.
9. Apart from this one conviction, Mr Sinkia has an otherwise clean driving licence and does not have any previous endorsements.
10. I have had regard to the magistrates' court sentencing guidance for dealing with offences of excess speed. For an offence of driving at 68 mph in a 40 mph speed limit, the starting point is a band B fine and disqualification for 7-56 days or 6 penalty points. A band B fine is between 75-125% of an offender's income. Having obtained details of Mr Sinkia's income at the time the magistrates fined him less than 75% of his relevant weekly income. The sentencing guidelines are that disqualification is the first option and that the matter should only be dealt with by way of points if there are mitigating factors. The guidelines give aggravating factors of poor road or weather conditions; LGVs, HGVs, PSVs etc.; towing a caravan or trailer; carrying passengers

or heavy loads; driving for hire or reward; evidence of unacceptable standard of driving over and above speed; location e.g. near school and a high level of traffic or pedestrians in the vicinity. The only mitigating factor given is where a genuine emergency is established. These matters would have been dealt with in depth at the magistrates' court and whilst driving at 68 mph in a 40 mph limit is clearly a serious matter magistrates clearly demonstrated by the sentence they regarded Mr Sinkia's offence being at the lower end of the scale.

11. If the licence is granted Mr Sinkia will be given employment by Diamond Cars on school contract runs. Diamond Cars are a new operator recently commencing business in the area.

Risk Analysis

12.

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 licensed vehicles may put the public at risk.	Members only grant a licence if they are satisfied that Mr Sinkia is a fit and proper person to hold such a licence.

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.