



Uttlesford District Council

Chief Executive: Dawn French

Licensing and Environmental Health

Date: Thursday, 02 February 2017
Time: 14:00
Venue: Committee Room
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors **R Chambers** (Chairman), A Anjum, **G Barker**, J Davey, T Goddard, J Gordon, **E Hicks**, S Morris, **J Parry**

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 notice by 12 noon two working days before the meeting.

AGENDA PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest
- 2 Determination of a private hire_hackney carriage driver's licence 5 - 8
- 3 Consideration of an item containing exempt information within the meaning of para 1 of schedule 12A of the Local Government Act 1972

PART 2 Exclusion of the Public and Press

- 4 Determination of a private hire_hackney carriage driver's licence
- 5 Determination of a private hire_hackney carriage driver's licence

6 Determination of a private hire_hackney carriage driver's licence

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Committee: Licensing and Environmental Health

Agenda Item

Date: 02 February 2017

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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 joint private hire/hackney carriage driver's licence. The suspension or revocation of the drivers licence is in accordance with section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976 under the heading "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. Private hire/hackney carriage driver's conditions.
 - c. Driver check for Mr McKelvey dated 02 December 2016.
 - d. Mr McKelvey's application form for a driver's licence dated 11 November 2015.
 - e. Mr McKelvey's signed declaration dated 14 January 2016.
 - f. Record of interview with Mr Mr McKelvey dated 06 January 2017.
 - g. Email from HMCS Court Service dated 10 January 2017 along with memorandum of conviction for Mr McKelvey.
 - h. Old and new guidelines for the Rehabilitation of Offenders Act 1974 when sentences become spent.

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	<p>Under section 61 of the LG(MP)A district councils may suspend or revoke a drivers licence for:</p> <p>(a) That since the grant of the licence he has-</p> <p>(i) been convicted of an offence involving dishonesty, indecency or violence; or</p> <p>(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</p> <p>(b) any other reasonable cause.</p> <p>In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.</p>
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

1. Mr Peter McKelvey of 26 Chestnut Avenue, Kettering, Northamptonshire, NN15 7BG currently holds a joint private hire/hackney carriage driver's licence (PH/HC1523) which is due to expire on 30 November 2018. This licence was first granted on 17 December 2015.
2. Mr McKelvey is currently driving for 24x7 Limited on one of their school contracts in the Northamptonshire area.
3. Uttlesford District Council issues three year licences to driver's since the introduction of the Deregulation Act 2015. Since then, the Council do online driver checks of DVLA records after the counterpart licence was abolished. A driver check completed on 02 December 2016 showed that Mr McKelvey had received five penalty points on his licence for a CD10 offence (driving without due care and attention). The offence took place on 15 November 2015, and he was convicted on 17 June 2016.

4. Mr McKelvey completed his application form for a private hire/hackney carriage driver's licence on 11 November 2015, and the offence took place four days later. This was still one month before his licence was granted but he did not notify the Council of this pending prosecution in that period.
5. Under condition 18c of the driver conditions Mr McKelvey has a duty to notify the Council with seven days of a conviction, caution or fixed penalty notice. He failed to comply with this condition of licence. He signed a declaration on 14 January 2016, to say that he would abide by his conditions of licence.
6. Mr McKelvey was interviewed (not under caution) on 06 January 2017, by the Licensing lead officer and Enforcement Lead Officer along with his contract manager from 24x7 Limited. He stated that the incident occurred in Milton Keynes on the Wellingborough roundabout in a 30mph zone when he was in collision with another car. He was unable to recall exactly what happened and while disputing that he was at fault, he was advised by his legal representative to accept the blame for the incident, stating "someone had to take the blame." He was aware five points had been placed on his licence and he was fined £260. He did not attend Court and his contact manager offered the opinion that the matter had been dealt with via Northampton Magistrates Court. The meeting was adjourned to get further information from Northampton Court Service.
7. On 10 January 2017, a member of the Licensing department made enquiries with Northamptonshire Magistrates Court Service who provided a memorandum of conviction for Mr McKelvey dated 17 June 2016. The memorandum reported that Mr McKelvey pleaded guilty to the offence of driving without due care and attention in his absence. The situation was that he was driving on London Road, Wellingborough on 15 November 2015, and was witnessed drifting over into the oncoming traffic's carriageway and caused a collision with another vehicle. The other vehicle was written off and the driver suffered slight whiplash. In addition to receiving five penalty points Mr McKelvey was fined £165, ordered to pay a victim surcharge of £20 and costs of £85.
8. In March 2014, the Rehabilitation of Offenders Act 1974 was amended to lower the time periods before a licence becomes spent. Previously when a fine was issued, it was spent after five years and now it is one year. However, as Mr McKelvey was convicted on 17 June 2016, the matter is not spent. Therefore, Mr McKelvey falls below licensing standard 7 which reads 'no other criminal convictions which are not deemed to be spent within the meaning of the Rehabilitation of Offenders Act 1974.'
9. Mr McKelvey does not currently meet licensing standards as he has an unspent conviction; this is in addition to his breach of conditions for which he has yet to be sanctioned. Therefore the matter now appears before members to consider whether Mr McKelvey remains a fit and proper person to hold a licence.

Risk Analysis

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 a private hire/hackney carriage vehicle may put the public at risk.	Members consider whether the driver remains a fit and proper person as he was convicted of an offence which is not yet spent and also as he has breached his conditions of 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.