

Meeting: GENERAL PURPOSES COMMITTEE

Portfolio Area: Environment and E-Government

Date: Friday 16th June 2006 10:00hrs

REVIEW OF MR SN HACKNEY CARRIAGE DRIVERS LICENCE

Environmental Health and Licensing

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1 PURPOSE

To review the Hackney Carriage Driver's licence held by Mr SN.

2 RECOMMENDATIONS

That the Committee determines whether there is reasonable cause to believe that Mr SN is no longer a fit and proper to hold a Hackney Carriage Driver's Licence, and whether action is necessary resulting from that decision.

3 BACKGROUND

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Local Authority the power to suspend or revoke Private Hire or Hackney Carriage Driver's Licences on any of the following grounds:

that he has since the grant of the licence –

- 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 this Act; or
- iii) any other reasonable cause.

It is because Mr SN has been convicted of an offence involving violence, and one involving drunkenness with a motor vehicle that the Committee is invited to review his licence. The offences came to light in a Criminal Records Bureau (CRB) disclosure dated January 2006.

4 DISCUSSION

Mr SN provided a CRB certificate dated 26 January 2006 that shows 2 convictions within the last 5½ years, when he was aged between 23 and 26 years. Mr SN did not declare any convictions on his application for renewal. The convictions are summarised below:

Date	Aged	Conviction	Sentence
09/01/01	23	Driving a motor vehicle with excess alcohol	Disqualified from driving for 12 months
23/11/04	26	Using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence	12 month conditional discharge
		Possessing offensive weapon in public place	12 month conditional discharge forfeiture order for destruction of baton

The Committee is advised that Taxi drivers are exempt from the Rehabilitation of Offenders Act 1974, therefore all convictions may be considered and none are spent. The Committee's attention is also drawn to our Draft Policy Statement on Convictions paragraph 3b iii (offences involving violence) and 3g I (offences involving drunkenness);

'An application will also normally be refused where the applicant has a conviction for an offence of...possession of offensive weapon...and the conviction is less than 3 years prior to the date of application'. In Mr SN's case this would be November 2007, however there is no obligation to consider an application favourably after this time. In any scenario, the nature and number of offences should be taken into account when deciding whether an individual would ever be considered fit and proper to be a taxi driver.

'...Where a disqualification has occurred as a result of a drink driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is considered for a licence...'. In Mr SN's case this would be January 2007. However there is no obligation to consider an application favourably after this time. In any scenario, the nature and number of offences should be taken into account when deciding whether an individual would ever be considered fit and proper to be a taxi driver.

Mr SN holds the following licence:

Type	Licence Number	Expiry Date
Hackney Carriage Driver	HCD0109	30/6/06 (held since 2000)

Mr SN has held a Hackney Carriage Driver's licence with Stevenage Borough Council since 2000 and there are no complaints against him on file.

However, referring to section 3 of this report, the Committee is invited to consider whether there is reasonable cause to believe he is unsuitable, or not fit and proper to be a taxi driver because:

- (1) He has been convicted of a violent offence; and
- (2) He has been convicted of an offence involving drunkenness with a motor vehicle; and
- (3) He did not declare any convictions on his renewal application form on 25/10/05.

Case history on the suspension of taxi driver's licences for 'reasonable cause' exists (*Leeds City Council v Hussain*), and is summarised below:

'The purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose therefore, is to prevent licences being given to or used by those who are not suitable people taking into account their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.'

The decision to suspend, revoke or refuse to renew should be based on whether as a result of evidence which has come to light, there are serious concerns about the fitness and propriety of a driver. There is no approved test of fitness, and common sense tests are based on whether:

'Would you, as a member of the Committee charged with the ability to grant a private hire driver's licence, allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?'

5 ALTERNATIVE COURSES OF ACTION INCLUDE:

- (1) To revoke his Hackney Carriage Driver's licence; or
- (2) To suspend his Hackney Carriage Driver's licence for a period determined by the Committee; or
- (3) To take no further action.

Please note that there is no legal option to add conditions to a Hackney Carriage Driver's Licence.

There is a right of appeal against a Committee decision to the Magistrate's Court. Please note that in the event of an appeal against the Committee's decision, including suspension or revocation of a licence, the appellant may continue to drive a taxi.

6 IMPLICATIONS

6.1 Financial Implications

There are no resource implications arising from the contents of this report.

Applicants/Licensees aggrieved by the decisions of the Council concerning their Licence applications may appeal to the Magistrates' Court against those decisions. The Magistrates' Court has the power to award costs against the Council if such appeal is upheld.

6.2 Legal Implications

The Committee's attention is drawn to Section 17 of the Crime and Disorder Act 1998 which requires local authorities to consider the community safety implications of ALL their activities. This is a corporate responsibility of the authority as a whole. Advice will be available during the course of the debate on any matters raised by the applicant or objectors.

6.3 Human Rights Implications

Members are advised that this application should be considered against a background of the implications of the Human Rights Act 1998.

BACKGROUND DOCUMENTS

- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Policy Statement on Convictions