

<b>Meeting Date</b>	16 <sup>th</sup> February 2011
<b>Report Title</b>	Hearing regarding Hackney Carriage Driver Conduct
<b>Portfolio Holder</b>	Cllr John Morris
<b>SMT Lead</b>	Brian Planner
<b>Head of Service</b>	Brian Planner
<b>Lead Officer</b>	Ian Mackenzie
<b>Classification</b>	<b>Open</b>

## **Purpose of Report and Executive Summary**

- 1.1 This report provides details of an offence of violence committed by a licensed driver while in charge of a Hackney Carriage and asks the committee to decide whether the driver is a fit and proper person to hold a Hackney Carriage Drivers Licence.

## **2 Background**

- 2.1 The Council has the responsibility for licensing hackney carriage and private hire vehicles, drivers and operators within the borough of Swale. As part of the process for the licensing of drivers the relevance of any criminal convictions is taken into account in determining the fitness of an applicant to hold a hackney carriage or private hire drivers licence. The policy guidance used in considering the fitness of an applicant is attached as appendix I.
- 2.2 It has been brought to our attention by the police that an existing driver, Mr J D Whiting – Badge No 2152, admitted assaulting a male causing actual bodily harm on Thursday 13 January 2011 at 1040hrs. Mr Whiting admitted the offence and received a police caution. The assault followed an argument regarding whether or not Mr Whiting had reversed into the victims car. Mr Whiting head-butted the victim causing a small cut to his nose.
- 2.3 This is a serious offence which gives rise to concerns as to whether Mr Whiting is a fit and proper person to hold a Hackney Carriage Drivers Licence and after consultation with the councils legal services it was decided, in the interest of public safety, to suspend his drivers licence on 26<sup>th</sup> January pending this hearing.
- 2.4 Mr Whiting has held a Hackney Carriage Drivers Licence from June 1997 and there have been a number of occasions where the Hackney Carriage Inspector has needed to take enforcement action.

2.5 Recorded licensing enforcement incidents over the past three years are set out below:

- 11.10.2008 - contravention of the dress code - written warning
- January 2009 – public complaints regarding aggressive driving and causing problems on the taxi rank by failing to move up – written warning
- 24.06.2009 – failure to move up the rank and aggressive behaviour to another taxi driver when a driver who had requested Mr Whiting to move up on the rank went to get something from the boot of his taxi and Mr Whiting then started his car and moved forward until the front of his car touched the back of the other drivers legs. When the other driver moved away Mr Whiting moved his car up further until his car touched the other drivers car in front – 2 day suspension.

### **3 Options**

3.1 Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 the Council as the Licensing Authority may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on the grounds that since the grant of a licence he has been convicted of an offence involving dishonesty, indecency or violence; or any other reasonable cause.

3.2 Members are asked to decide on the appropriate action to be taken in this case taking into account the policy guidance set out in Appendix I.

3.3 Any driver aggrieved by the decision of the Council would have the right of appeal to a magistrates court within 21 days of the date of the decision.

### **4 Appendices**

4.1 The following documents are to be published with this report and form part of the report

- Appendix I: Guidance for considering the relevance of criminal records in issuing a Hackney Carriage or Private Hire Drivers Licence.

### **5 Background Papers**

5.1 Police incident report.

## Appendix I

### Guidance for considering the relevance of criminal records in issuing a Hackney Carriage or Private Hire Vehicle

The following paragraphs set out the policy for considering the relevance of convictions identified from criminal records when considering the fitness of an applicant to hold a Hackney Carriage or Private Hire drivers licence. Each application will be decided on its own merits and in cases of uncertainty or if particular mitigating circumstances are thought to apply the decision will be made in conjunction with the Head of Service and Chairman of the Hackney Carriage Committee. However, the overriding consideration will be the protection of the public.

	Conviction	Licence decision
Traffic Offences	An isolated conviction for reckless driving or driving without due care and attention etc,	Licence issued with a warning as to future driving and standard expected
	More than one conviction of the type above within the last two years	Licence refused or revoked and no further application considered until a period of 3 years free from convictions has elapsed
Drunkenness	Convictions of driving or being in charge of a vehicle while under the influence of alcohol	Licence refused or revoked and no further application considered until a period of 3 years from the restoration of a driving licence. If applicant is found to be an alcoholic then a period of 5 years should elapse after treatment before a licence application is considered.
	More than one conviction of driving or being in charge of a vehicle while under the influence of alcohol	Licence refused
	Conviction for drunkenness not in a motor vehicle	For an isolated incident a Licence issued with a warning given as to future behaviour. A number of convictions for drunkenness may indicate a medical problem necessitating a critical examination. If applicant is found to be an alcoholic then a period of 5 years should elapse after treatment before a licence application is considered.
Drugs	Conviction for drug related offences	Licence refused or revoked and no further application considered until a period of 3 years free from convictions has elapsed or 5 yrs after detoxification in the case of the applicant being an addict.
Indecency Offences	Convictions for indecent exposure, indecent assault, importuning	Licence refused or revoked and no further application considered until a period of 5 years free from convictions has elapsed.
	More than one conviction as above or any of the more serious sexual offences	Licence refused
Violence	Convictions for grievous bodily harm, wounding or assault	Licence refused or revoked and no further application considered until a period of 3 years
	Convictions for grievous bodily harm, wounding or assault while in charge of a Hackney Carriage or Private Hire Vehicle	Licence refused
Dishonesty	Convictions for dishonesty	Licence refused or revoked and no further application considered until a period of 3 years free from convictions has elapsed