

# Licensing Sub-Committee of the Regulatory Committee

9.30am, Tuesday, 23 April 2024

## Request for Suspension of Taxi Driver's Licence – Baris Eroglu

Item number	
Report number	A Agenda
Executive/routine	
Wards	Citywide
Council Commitments	N/A

### 1. Recommendations

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- 1.1 The Directorate recommends that:
  - 1.1.1 the Taxi Driver's Licence previously granted to Baris Eroglu should be suspended on the grounds that he is no longer fit and proper to hold the licence and or that a condition(s) of licence has been breached and;
  - 1.1.2 if the Committee decides to suspend the licence determines what the period of suspension should be; and
  - 1.1.3 determines whether the suspension should take effect immediately.

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## Request for Suspension of Taxi Driver's Licence – Baris Eroglu

### 2. Executive Summary

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- 2.1 Baris Eroglu is the holder of a Taxi Driver's Licence which expires on 15 September 2025 ('the licence'). Council officers have investigated instances of non-compliance with conditions of licence and several passenger complaints against Mr Eroglu, and now recommend that the Committee considers suspending the licence in terms of paragraph 11 of the Civic Government (Scotland) Act 1982 ('the 1982 Act'). This report suggests the procedures that the Committee should adopt when considering the request and sets out the various options open to the Committee under the 1982 Act.

### 3. Background

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- 3.1 The Police and other persons can make comments or complaints regarding the holders of licences and, in certain cases, request that the relevant licence should be suspended or revoked. Committee members can consider such comments and requests. The Committee can decide to take no further action, issue a warning to the licence holder, suspend or revoke the licence.
- 3.2 In this case, in a three month period three complaints were received from members of the public in relation to Mr Eroglu's behaviour while undertaking licensed taxi driver work. In addition, when the subject of a routine compliance check by enforcement officers, Mr Eroglu was unable to produce a valid certificate of insurance for his taxi, this being a breach of licence conditions.

### 4. Main report

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- 4.1 Following an investigation by Enforcement Officers from Regulatory Services the Head of Regulatory Services requests that the Committee considers the suspension of a licence. Details of the licence suspension request are attached at [Appendix 1](#).

## **Complaint 1**

- 4.2 On 2 August 2023 a member of the public contacted the Licensing Service, regarding concerns about a journey made in a licensed taxi (Appendix 2a). The complainer provided the vehicle licence number and the manager of the vehicle subsequently confirmed that Mr Eroglu was driving the vehicle at the relevant time.
- 4.3 Council enforcement officers emailed Mr Eroglu about the allegations (that he had mounted the kerb and had used aggressive and inappropriate language towards a third party during the journey). After receiving a response from Mr Eroglu, officers issued him with advice that he should ensure that his interactions with members of the public remain professional at all times, and reminded him about Condition 136 of his licence (Appendix 3).

## **Complaint 2**

- 4.4 On 19 September 2023 a second member of the public contacted the Licensing Service, regarding concerns about a journey made in a licensed taxi. The complainer provided the vehicle licence number and the manager of the vehicle subsequently confirmed that Mr Eroglu was driving the vehicle at the relevant time.
- 4.5 Council enforcement officers emailed Mr Eroglu about the allegations (that on two separate occasions he had failed to provide the customer adequate assistance with his shopping, and had been unhelpful and 'blunt' in interactions with the customer). After receiving a response from Mr Eroglu, officers again issued him with advice that he should ensure that his interactions with members of the public remain professional at all times, and further reminded him about Conditions 132 and 136 of his licence (Appendix 3).

## **Routine Compliance check - 5 October 2023**

- 4.6 When carrying out routine compliance checks on Taxi and Private Hire vehicles at the taxi rank at Cameron Toll Shopping Centre, Enforcement officers asked Mr Eroglu to see his insurance documentation and he was unable to provide this. This would appear to be a breach of condition 2(b) of his licence (Appendix 3). Officers also noted that Mr Eroglu was not complying with the required standards of dress, in that he was wearing white training shoes. This is a breach of Schedule D to the relevant conditions of licence.
- 4.7 Enforcement officers reminded Mr Eroglu that the dress code for taxi drivers should always be adhered to when engaged in licensed work. They also had to make several follow-up requests for Mr Eroglu to produce the required insurance details, which were eventually provided on 18 October 2023.

## **Complaint 3**

- 4.8 On 14 November 2023 a third member of the public contacted the Licensing Service, regarding concerns about a journey made in a licensed taxi (Appendix 2b). The complainer provided the vehicle licence number and the manager of the vehicle subsequently confirmed that Mr Eroglu was driving the vehicle at the relevant time.

- 4.9 The issues raised by the passenger (Appendix 2b) would breach Condition 136 of Mr Eroglu's licence, and failure to provide a receipt would breach condition 33 (Appendix 3).
- 4.10 Council enforcement officers emailed Mr Eroglu to invite him to interview to discuss the allegation i.e. that he had acted in an aggressive manner in interactions with the customer.
- 4.11 Over the next month, after several attempts by both email and telephone call to arrange an interview date, during a telephone call on 12 December 2023 Mr Eroglu stated that he was away from Edinburgh and did not know when he would return. On being reminded by the officer that the investigation was a serious matter, Mr Eroglu told the officer "Watch your f\*\*\*ing words". He eventually stated that he would "be in touch" when he was back in Edinburgh. Mr Eroglu has not further contacted the Service. It is not known whether he continues to act as a licensed driver.

### **Recommendation**

- 4.12 The Directorate is of the view that a hearing under paragraph 11 of the 1982 Act is required given that there are now three separate complaints about Mr Eroglu conduct in relation to passengers, and the apparent breach of licence condition detected during a routine compliance check. It is noted that previous corrective advice does not appear to have worked and that Mr Eroglu has not engaged in respect of the third complaint. It is recommended that the licence is suspended on the grounds that Mr Eroglu is no longer a fit and proper person to be the holder of the licence and or that a condition of licence has been breached.
- 4.13 The licence holder has been invited to attend, notified of the contents of this report and provided with a copy of this report.
- 4.14 Committee members are reminded that the grounds for suspending a licence are set out in Paragraph 11(2) of Schedule 1 to the 1982 Act. A Licensing Authority may order the suspension or revocation of a licence if in its opinion:
- 4.14.1 The holder of the licence, or, where the holder is not a natural person, any Director of it, or Partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the licence;
- 4.14.2 The activity to which the licence relates is being managed by or on carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of a licence under Paragraph 5(3) of the said Schedule;
- 4.14.3 The carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or safety;
- 4.14.4 A condition of the licence has been contravened.
- 4.15 In terms of Paragraph 11(3) of the said Schedule, a Licensing Authority may make an order under sub-paragraph 2(d) above in respect of a contravention of a

condition of licence notwithstanding that there has been no conviction in that respect.

- 4.16 In terms of Paragraph 11(4) of the said Schedule, in considering whether to suspend a licence, the Council may have regard to:
  - 4.16.1 Any misconduct on the part of the licence holder, whether or not constituting a breach of any provision of Part I or II or the said Schedule of the said Act, which in the opinion of Council has a bearing on the fitness to hold a licence; and
  - 4.16.2 Where the licence relates to an activity consisting of or including the use of premises or a vehicle or vessel, any misconduct on the part of persons frequenting or using the premises, vehicle or vessel occurring there or any misconduct in the immediate vicinity of the premises, vehicle or vessel which is attributable to those persons.
- 4.17 Committee members may make such reasonable enquiries as they think fit (and subject to sub-paragraph 11(5) of the said Schedule) include the results of their inquiries in the matters to which they have regard in such consideration.
- 4.18 At the meeting officers will be provided with an opportunity to address the Committee. The licence holder and/or their representative will then be provided with an opportunity to address the Committee. Members of the Committee can then ask questions of the officers and of the licence holder.
- 4.19 If there are matters or allegations raised that are not admitted by the licence holder, the Committee can either arrange an evidential hearing on another date or decide to proceed on the basis of the material presented to them.
- 4.20 If the latter option is adopted, the Committee should allow the licence holder and the officers to make full submissions on the alleged incidents. Both parties should answer any points raised by the other and by the Committee. The Committee will have to:
  - 4.20.1 Carefully consider the information they have before them;
  - 4.20.2 Disregard any allegations which they consider to be gossip, speculation or unsubstantiated innuendo;
  - 4.20.3 Identify which matters are admitted or disputed;
  - 4.20.4 Consider whether the source of any statements, their nature and inherent probability gives it greater degree of credibility;
  - 4.20.5 Decide whether, on the balance of probability, the licence holder has committed the alleged misconduct; and
  - 4.20.6 Be in a position to explain their approach and the basis on which they preferred any version of events.
- 4.21 Having heard from all parties the Committee should decide what, if any, action it wishes to take. It can decide to take no further action, issue a warning to the licence holder as to his future conduct or suspend the licence.

- 4.22 If the Committee decides to suspend the licence, it must determine whether the period of suspension should be for the unexpired portion of the period of the licence or some shorter period.
- 4.23 If suspending a licence, the Committee must consider whether it is of the view that the circumstances of the case justify immediate suspension. If immediate suspension is not justified the suspension will take effect after 28 days or, if an appeal is made, when this has been abandoned or determined.
- 4.24 Suspension of a licence means that the licence remains in existence but has no effect whilst the suspension is in place. The licence holder must cease the licensed activity during the period of suspension. Any ID badges or plates held by the licence holder should be immediately returned to the Council when the suspension comes into effect. It is a criminal offence for the licence holder to continue the licensed activity during any period of suspension.

## 5. Next Steps

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- 5.1 Decisions on individual licences have to be considered on their own merits.
- 5.2 The process outlined takes account of the relevant statutory provisions.
- 5.3 The licence holder has a right of appeal against any decision made. The appeal lies to the Sheriff Court.

## 6. Financial impact

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- 6.1 None, as the costs of these matters are recovered through taxi and private hire car vehicle and driver licence application fees.

## 7. Stakeholder/Community impact

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- 7.1 None

## 8. Background reading/external references

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- 8.1 [City Of Edinburgh Council Licensing Conditions for Taxis and Private Hire Cars, Taxi and Private Hire Car Drivers](#)

## 9. Appendices

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- 9.1 Appendix 1 – Request for suspension of Taxi Driver’s Licence
- 9.2 Appendix 2a – ‘Complaint 1’ email dated 2 August 2023
- 9.3 Appendix 2b – ‘Complaint 3’ email dated 14 November 2023

9.4 Appendix 3 – relevant conditions of licence