

# Licensing Sub-Committee of the Regulatory Committee

9.30am, Monday, 17 June 2024

## Requests for Suspension of Private Hire Driver's Licences

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

### 1. Recommendations

---

- 1.1 The Directorate recommends that:
- 1.1.1 the Private Hire Driver's licences previously granted to the licence holders listed in Appendix 1 should be suspended on the grounds that they are no longer fit and proper to hold the licences;
  - 1.1.2 if the Committee decides to suspend the licences, determines what the period of suspension should be; and
  - 1.1.3 determines whether the suspension(s) should take effect immediately.
  - 1.1.4 That committee further notes that no reports to the procurator fiscal will be made in respects of the events detailed in this report.

Andrew Mitchell

Head of Regulatory Services

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4208

# Report

## Requests for Suspension of Private Hire Driver's Licences

### 2. Executive Summary

---

- 2.1 In February 2024 officers from the Licensing Enforcement team carried out a 'test purchase' project in the city centre targeting illegal pick ups by Private Hire Car Drivers. Several holders of Private Hire Driver's Licences accepted hires without an existing pre-booking, this being a breach of conditions of licence and the Civic Government (Scotland) Act 1982 ('the 1982 Act'). As a result, the Directorate now recommends that the Committee considers suspending the licences listed in Appendix 1 in terms of paragraph 11 of 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

---

- 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 Condition 205 of [City Of Edinburgh Council Licensing Conditions for Taxis and Private Hire Cars, Taxi and Private Hire Car Drivers](#) states that with respect to any holder of a Private Hire Car Driver's Licence:
- 3.2.1 The Driver shall not in any circumstances pick up passengers until he has confirmed their identity and the existence of a booking and the onus of proving that such confirmation has been obtained shall be on the Driver of the Licensed Vehicle.
- 3.3 Section 7(1) of the Civic Government (Scotland) Act 1982 ('the Act') provides that it is an offence to carry out any licensable activity without having such a licence. The distinction between the types of fares that can be picked up is set out in the definitions of 'taxi' and 'private hire car' in S.23 of the Act. By definition, only a taxi

can ply for trade and pick up fares that have not been pre-booked. If a Private Hire Car ('PHC') driver picks up a fare that it not pre-booked then it is, by definition, acting as a taxi and therefore carrying out a licensable activity for which no licence is in place.

## 4. Main report

---

- 4.1 Following an enforcement exercise by Enforcement Officers from Regulatory Services, the Trading Standards and Enforcement Manager requests that the Committee considers the suspension of various licences. Details of the relevant licences are attached at [Appendix 1](#).
- 4.2 Enforcement Officers carried out an exercise at city centre locations in February 2024 to investigate the level of non-compliance with licence conditions and relevant legislation in the Private Hire Car ('PHC') trade. The purpose of the exercise was to detect and deter behaviour which presents a risk to public safety by illegal pick ups.
- 4.3 During the exercise officers approached stationary PHC vehicles during periods of peak demand in the nighttime economy (between 9pm and 4am). Officers requested a hire from the PHC driver without having made a pre-booking. Officers did not seek to encourage or persuade drivers to accept the fare if the hire was not accepted at the first attempt.
- 4.4 If the driver accepted the the fare once the journey had commenced, officers asked the driver to pull over and then identified themselves. Officers then explained to the driver the purpose of the exercise and asked the driver to produce their identification documents. Committee members are asked to note that failure to make such documents available while engaged in licenseable activity would be additionally a breach of licence conditions.
- 4.5 The Directorate is of the view that hearings under paragraph 11 of the 1982 Act are required because it appears to officers that the licence holders listed in Appendix 1 have breached their conditions of licence. It is recommended that the relevant Private Hire Driver's Licences previously granted are suspended on the ground that the licence holders are no longer fit and proper persons to hold the licences.
- 4.6 The licence holders have been invited to attend, notified of the contents of this report and provided with a copy of this report.
- 4.7 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:
  - 4.7.1 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;

- 4.7.2 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;
  - 4.7.3 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;
  - 4.7.4 A condition of the licence has been contravened.
- 4.8 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.
- 4.9 In terms of Paragraph 11(4) of the said Schedule, in considering whether to suspend a licence, the Council may have regard to:
- 4.9.1 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
  - 4.9.2 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.
- 4.10 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.
- 4.11 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.
- 4.12 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.
- 4.13 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:
- 4.13.1 Carefully consider the information they have before them;
  - 4.13.2 Disregard any allegations which they consider to be gossip, speculation or unsubstantiated innuendo;

- 4.13.3 Identify which matters are admitted or disputed;
  - 4.13.4 Consider whether the source of any statements, their nature and inherent probability gives it greater degree of credibility;
  - 4.13.5 Decide whether, on the balance of probability, the licence holder has committed the alleged misconduct; and
  - 4.13.6 Be in a position to explain their approach and the basis on which they preferred any version of events.
- 4.14 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.
  - 4.15 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.
  - 4.16 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.
  - 4.17 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

---

- 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

---

- 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

---

- 7.1 None

## **8. Background reading/external references**

---

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

## **9. Appendices**

---

- 9.1 Appendix 1 – Licence holder details
- 9.2 Appendix 2 – witness statements from Enforcement Officers
- 9.3 Appendix 3 – Letter to Licensing Manager dated 19 March 2024
- 9.4 Appendix 4 – Licence Conditions and Legislation