

WEST DUNBARTONSHIRE COUNCIL

Report by the Head of Legal, Democratic and Regulatory Services

Licensing Committee – 28 August 2013

Subject: Hearing regarding possible suspension of a Taxi Driver's Licence

1. Purpose

- 1.1** To consider a suspension of a Taxi Driver's Licence held by Mr. Allan MacLeod, West Lodge, Auchentoshan, G81 4SW.

2. Recommendations

- 2.1** That the Committee considers the terms of this report, the terms of the evidence presented at the hearing and thereafter determines whether the licence should be suspended and, if so, the duration of the suspension and date of commencement thereof.

3. Background

- 3.1** In February 2013 the Licensing Team were advised of an incident by Educational Services which had taken place involving Mr. MacLeod on 19 September 2012 at Geisland School in Beith, North Ayrshire, while he was carrying out a school contract on behalf of West Dunbartonshire Council.
- 3.2** James McArthur, (Licensing Officer) and Robert Mackie, Senior Officer (Licensing Services) attended at Geisland School on 17 April 2013 and interviewed 3 witnesses to the incident. One witness was unavailable at the time.
- 3.3** Mr. MacLeod was subsequently interviewed on 18 April 2013 by James McArthur and Robert Mackie.
- 3.4** Mr. MacLeod was advised that, due to the seriousness of the allegations, the circumstances and information would be reported to the Principal Solicitor of Legal, Democratic and Regulatory Services.
- 3.5** Having consulted with Mr. Nigel Ettles, Principal Solicitor within Legal, Democratic & Regulatory Services, it was decided that due to the nature of the complaint, a hearing should take place to consider the possible suspension of Mr. MacLeod's taxi driver's licence.
- 3.6** Mr. McArthur again attended at Geisland School on 11 June 2013 in order for the statements made by the three witnesses to be checked and signed. Mr. McArthur was able to interview the fourth witness at this time and recorded a further statement.

4. Main Issues

- 4.1** A licensing authority may order the suspension of a licence if in its opinion the holder of the licence is not, or is no longer, a fit and proper person to hold the licence.
- 4.2** The period of suspension of a licence is the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix.
- 4.3** Where a licensing authority decides to order the suspension of a licence, the suspension generally does not take effect until the expiry of the time within which the holder of the licence may appeal against the suspension (28 days from the date of the decision to suspend) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the suspension. However, if the licensing authority determines that the circumstances of the case justify immediate suspension, it may order that the licence be suspended immediately.
- 4.4** A licensing authority must, before deciding to suspend a licence, give the holder of the licence, the complainer and the Chief Constable an opportunity of being heard.
- 4.5** The licence holder, a representative of Educational Services, the witnesses and a representative of the Police authority have been invited to attend the meeting of the Committee on 28 August 2013 in order that a hearing may take place with regard to the possible suspension of the licence.
- 4.6** In considering whether to suspend a licence the licensing authority may have regard to any misconduct on the part of the licence holder which in the opinion of the authority has a bearing on his fitness to hold a licence.
- 4.7** The matters which the Committee will require to consider are as follows:-
- (a) Whether the alleged misconduct has been established.
 - (b) If the Committee is satisfied that the alleged misconduct has been established, whether, having regard to the misconduct, Mr. MacLeod is no longer a fit and proper person to hold a taxi driver's licence.
 - (c) If the Committee is of the opinion that Mr. MacLeod is no longer a fit and proper person, the Committee must consider whether his licence should be suspended.
 - (d) If the Committee is satisfied that the licence should be suspended, the Committee must give Mr. MacLeod an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
 - (e) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify

immediate suspension.

5. People Implications

5.1 There are no personnel issues.

6. Financial Implications

6.1 There are no financial implications

7. Risk Analysis

7.1 There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment

8.1 No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

9.1 No consultation exercise was required in relation to this matter.

10. Strategic Assessment

10.1 In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Head of Legal, Democratic and Regulatory Services

Date: 14/6/2013

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Appendices: N/A

Background Papers:

1. Report detailing complaint against Mr. MacLeod.

2. Witness statements from Mr. Robert Frew, Mr. James Curran, Mrs. Mary Phillips and Mrs. Wilma Smith.
3. Letter to Mr. MacLeod dated 24 July 2013.
4. Letters to Mr. Frew, Mr. Curran, Mrs. Phillips and Mrs. Simpson dated 24 July 2013.
5. Letter to Educational Services dated 31 July 2013.
6. Letter to Chief Constable dated 31 July 2013.

Wards Affected: N/A.