

WEST DUNBARTONSHIRE COUNCIL

Report by the Head of Legal, Democratic and Regulatory Services

Licensing Committee – 1 May 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. Barry Austin, 27 Round Riding Road, Dumbarton, G82 2HB.

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** On 20 February 2013 a complaint was received by telephone from a member of the public in relation to an incident involving Mr. Austin on 19 February 2013.
- 3.2** The complainer submitted written details of the incident by email on 28 February 2013.
- 3.3** Mr. Austin was subsequently interviewed on 18 March 2013 by James McArthur, (Licensing Officer) and Carol Ann Anderson (Licensing Assistant).
- 3.4** Mr. Austin 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. Austin's taxi driver's licence.
- 3.6** A summary of the complaint can be seen at Appendix 1. The personal details of the complainer have been redacted.

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, the complainer and a representative of the Police authority have been invited to attend the meeting of the Committee on 1 May 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. Austin 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. Austin 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. Austin 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: 5/4/2013

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Appendices: Report detailing complaint against Mr. Austin.

Background Papers:

1. Letter to Mr. Austin dated 17 April 2013.
2. Letter to complainer dated 17 April 2013.
3. Letter to Chief Constable dated 17 April 2013.

Wards Affected: N/A.

