

**21 September 2016**

**ITEM: 5**

**Licensing Sub-Committee**

**REVIEW OF A PRIVATE HIRE DRIVER LICENCE**

**Wards and communities affected:**

All

**Key Decision:**

Non-key

**Report of:** Laura Manning – Licensing Officer

**Accountable Head of Service:** Andrew Millard – Head of Planning and Growth

**Accountable Director:** Steve Cox - Corporate Director of Environment and Place

**This report is exempt:** It is not to be published by virtue of Part 1 of Schedule 12 Local Government Act 1972 because it contains information relating to an individual.

*If the report, or a part of this, has been classified as being either confidential or exempt by reference to the descriptions in Schedule 12A of the Local Government Act 1972, it is hereby marked as being not for publication. The press and public are likely to be excluded from the meeting during consideration of any confidential or exempt items of business to which the report relates.*

**Date of notice given of exempt or confidential report:** Not applicable

**Executive Summary**

Mr John Venus (DOB: 18/09/1972) is a licensed Private Hire Driver. Mr Venus has received a motoring conviction for failure to give information to identify driver etc, detailed at 2.2.1, which puts him outside the Council's Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaint and / or other matters.

**1. RECOMMENDATIONS:**

**1.1 The Sub-Committee agrees:**

- (a) To take no further action; or
- (b) To suspend the Private Hire Driver's licence;
- (c) To revoke the Private Hire Driver's licence; or
- (d) Any other decision the Sub-Committee deems reasonable

## 2. Introduction and Background:

2.1 Mr John Venus (DOB: 18/09/1972) of 7 The Circle, Tilbury, Essex, RM18 7RS, has been a licensed Private Hire Driver at Thurrock Council since 22<sup>nd</sup> April 2015.

2.2 On 9<sup>th</sup> August 2016 Mr Venus contacted the Licensing Department by phone to advise he had received a motoring conviction. A further online check was completed. A copy of the check is attached at **Appendix A** and confirmed the conviction detailed below:

### 2.2.1

Court	Conviction Date	Offence Date	Offence	Disposal
Unknown	14/07/2016	04/12/2015	MS90 Failure to give information as to identify driver etc	6 Penalty Points
Intermediate Motoring Offence (3+ points) - Major Motoring Offence				

2.2.2 The other conviction on Mr Venus' DVLA licence has previously been declared to the Licensing Department by Mr Venus; no further action was taken. The conviction is detailed below:

Court	Conviction Date	Offence Date	Offence	Disposal
Unknown	23/07/2015	31/01/2015	SP30 Exceeding the statutory speed limit on a public road	3 Penalty Points
Intermediate Motoring Offence				

## 3. Issues, Options and Analysis of Options:

3.1 Mr Venus does not meet the Licensing criteria under Thurrock Council's statement of policy and guidelines relating to the relevance of convictions, formal / simple cautions, complaints and/or other matters (Motoring Offences – Major Traffic Offences). A copy of the policy is attached at **Appendix B**.

3.2 The Sub-Committee must therefore decide whether Mr Venus is a fit and proper person to hold a Private Hire driver's licence.

## 4. Reasons for Recommendation:

4.1 These are the options available to the Sub-Committee.

## **5. Consultation (including Overview and Scrutiny, if applicable)**

5.1 No consultation is required or undertaken.

## **6. Impact on corporate policies, priorities, performance and community impact**

6.1 Section 17 of the Crime and Disorder Act 1998 places a duty on local authorities to do all that it can to prevent –

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local community), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this application in relation to these duties the authority should have due regard to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976, Thurrock Council's guidelines on previous convictions or cautions and any submissions made by the applicant.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Laura Last**  
**Management Accounts**

There are no financial implications associated with the report

### **7.2 Legal**

Implications verified by: **Chris Pickering**  
**Principal Solicitor - Litigation & Employment**

1. Thurrock Council, as Licensing Authority for Hackney Carriage and Private Hire drivers in the district, has the power to determine matters of this nature.
2. Section 61(1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 states that a Council may suspend or revoke or refuse to renew the license on the grounds that since the grant of the licence—  
(i) the driver has been convicted of an offence involving dishonesty, indecency or violence; or (ii) the driver has been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act
3. Section 61(1) (b) of the 1976 Act States that, a council may suspend or revoke or refuse to renew the licence of a driver for any reasonable cause.

4. Thurrock Council as a Licensing Authority has a set of conditions which, in addition to the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, as amended, regulates the hackney carriage service. A driver must be a fit and proper person.
6. The applicant has the right to appeal to the Magistrates Court against the refusal to grant a licence under section 51 of the 1976 Act.

### 7.3 Diversity and Equality

Implications verified by: **Becky Price**  
**Community Development Officer**

The Council is under a statutory duty to ensure that all relevant legislation is considered, and this includes other important statutory requirements, including the Rehabilitation of Offenders Act 1974. However, since 2002 licensed drivers have been an exempted occupation under this Act. In effect this means that, in relation to licensed drivers, no offence is ever spent.

However, the Council should give due regard to Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976, which sets out the statutory criteria that must be met before a private hire driver's licence can be granted. Section 59(1) (a) relates to the grant of a hackney carriage driver's licence. In both cases the requirement that must be satisfied is that the applicant is a 'fit and proper person' to hold a licence. This therefore places a duty on the Authority not to grant a licence...."unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence..." A right of appeal to the Magistrates Court against the refusal to grant a licence to drive private hire and hackney carriage vehicles exists under Section 52(1) and 59 (2) of the 1976 Act respectively.

### 7.4 Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental

The implications of Section 17 of the Crime and Disorder Act 1998 have been considered and can be found in 6.1 above.

### 8. Background papers used in preparing the report:

- Town Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Road Safety Act 2006 Section 52

**9. Appendices to the report:**

- Appendix A - Copy of Mr Venus' online DVLA check
- Appendix B - Thurrock Council's statement of policy and guidelines relating to the relevance of convictions, formal / simple cautions, complaints and/or other matters

**Report Author:**

Laura Manning  
Licensing Officer