

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** LICENSING COMMITTEE

**DATE:** THURSDAY, 29 NOVEMBER 2012

**REPORT BY:** THE DIRECTOR OF ENVIRONMENT

**SUBJECT:** IMPOSING SANCTIONS ON PRIVATE HIRE AND  
HACKNEY CARRIAGE DRIVERS

**1.00 PURPOSE OF REPORT**

1.01 To update the Committee in relation to a recent Judicial Review addressing suspension of a licence and when this sanction should be used.

**2.00 BACKGROUND**

2.01 It is the responsibility of the Licensing Section to ensure that any individual licensed as a Private Hire / Hackney Carriage Driver is a fit and proper person to hold such a licence.

2.02 There have been instances when Flintshire County Council (and other authorities) has suspended a Private Hire / Hackney Carriage driver's licence pending further investigation, for example, when serious allegations in relation to the conduct of a driver have been made by a child or other vulnerable passenger.

2.03 The power to suspend and revoke drivers' licences is contained in Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

**3.00 CONSIDERATIONS**

3.01 A recent Judicial Review (R v Cardiff City Council) makes it clear that suspension of a Driver's Licence is a final decision in relation to whether the individual is a fit and proper person. It should not be used as an interim measure pending further investigation in to a matter of concern. This aspect was addressed directly by the Judge and the relevant wording is shown at Appendix A.

3.02 In light of the judgement, any suspension used in this way would be unlawful.

3.03 A suspension can be used as a sanction, but it will be a lesser sanction than revocation, for example, suspending the licence for a specific period of time.

3.04 The alternatives would be voluntary suspension by the driver himself or herself; suspension of the driver by the Private Hire Operator; suspension by the employer of the driver; suspension by Flintshire County Council Transportation or Social Services Departments when the driver concerned is operating under contract or prohibition from driving made a condition of police bail in the circumstances of an ongoing police investigation.

3.05 The Law Commission is currently reviewing the 1847 and 1976 legislation and it is hoped that they consider the introduction of a provision for 'suspension for the purposes of investigation' when they present their proposed draft legislation towards the end of 2013.

#### **4.00 RECOMMENDATIONS**

4.01 That Members note that any future suspension of a Private Hire / Hackney Carriage Driver's Licence by a Licensing Sub-committee is part of a final decision on the fitness and propriety of a licensed driver and cannot be used as an interim measure while further investigations are undertaken.

#### **5.00 FINANCIAL IMPLICATIONS**

5.01 None.

#### **6.00 ANTI POVERTY IMPACT**

6.01 None.

#### **7.00 ENVIRONMENTAL IMPACT**

7.01 None.

#### **8.00 EQUALITIES IMPACT**

8.01 None.

#### **9.00 PERSONNEL IMPLICATIONS**

9.01 None.

#### **10.00 CONSULTATION REQUIRED**

10.01 None.

#### **11.00 CONSULTATION UNDERTAKEN**

11.01 None.

**12.00 APPENDICES**

12.01 Attached.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985**  
**BACKGROUND DOCUMENTS**

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