

PROTOCOL FOR DEALING WITH THE SUSPENSION, REVOCATION AND NON-RENEWAL OF DRIVERS' LICENCES

Introduction

Uttlesford District Council licenses drivers of hackney carriages under Section 46 Town or Police Clauses Act 1847 and also licenses private hire vehicle drivers under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. Under Section 61 of the 1976 Act both hackney carriage and private hire vehicle driver's licences may be suspended or revoked or the local authority may refuse to renew the same on the grounds that since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence or has been convicted of an offence under or has failed to comply with the provisions of either the 1847 Act or the 1976 Act. A licence may also be revoked or suspended or may not be renewed for any other reasonable cause.

Any other reasonable cause

This expression is not defined in the legislation. However, it is not limited to matters which arose after the grant of the licence. Examples of what may be considered 'any other reasonable cause' would include (but is not limited to):

- Cases where information comes to light which suggests that had the information been known at the time of application, a licence would not have been granted or renewed.
- Where a driver ceases to meet the council's licensing standards.
- Where the driver has breached a condition of his or her driver's or vehicle licence.
- Where the driver has committed a minor offence for which he or she is not prosecuted.
- Where information comes to light which suggests that the driver may no longer be a fit and proper person to hold a licence.

Appeals

Whenever a decision is taken to suspend, revoke or not to renew a licence or where conditions are imposed upon a private hire vehicle driver's licence that the driver is not satisfied with there is a right of appeal to the magistrates' court. Normally a decision to suspend, revoke or not to renew a licence takes effect 21 days after the driver has been given notice of the decision. The driver may continue to drive during that period and if he or she lodges an appeal within that time may continue to drive until such time as the appeal has been disposed of or has been abandoned. However, this does not apply in two cases. Where a licence is suspended or revoked and it appears to the council that the interests of public safety require the suspension or revocation to have immediate effect and notifies the driver accordingly, then whilst the driver may still appeal, he or she may not drive immediately he or she has been notified of the decision.

Delegated Powers

The Assistant Chief Executive and those authorised by him have delegated powers to deal with certain types of case. These are as follows:

1. When the Assistant Chief Executive believes that a licence should be suspended with immediate effect on grounds of public safety he may do so. The Assistant Chief Executive will arrange for a special meeting of the Licensing Committee to be convened as soon as is reasonably practicable for the purpose of determining whether the suspension should be confirmed or the licence revoked.
2. The council has a policy of granting or renewing licences in some circumstances where the driver provides a statutory declaration as to his or her character pending receipt of a clear Criminal Records Bureau check. If upon receipt of the CRB check it transpires that the applicant has made a false declaration the Assistant Chief Executive has power to revoke the licence.
3. The Assistant Chief Executive also has power to suspend licences where there has been a breach of condition or where in the Assistant Chief Executive's view a prosecution would be disproportionate.

Any other decisions concerning the revocation, suspension or non-renewal of a driver's licence must be referred to the Licensing Committee. In addition, the Assistant Chief Executive may refer cases at his discretion to the Committee instead of dealing with them under his delegated powers.

Procedure – Decisions under delegated powers

Where the Assistant Chief Executive is considering exercising his delegated powers the following procedure will apply:

1. The Assistant Chief Executive or those authorised by him will write to the driver requesting that he or she make an appointment to meet with the Assistant Chief Executive. The letter will contain the following:
 - a. Details of the allegations which have been made against the driver or other matters which may lead to the suspension of his licence.
 - b. A statement that the Assistant Chief Executive may consider suspending the driver's licence for up to 14 days.
 - c. A statement that the driver may be accompanied by his or her operator, a trade union representative or a friend.
 - d. A statement that in the event that the Assistant Chief Executive decides to suspend the licence that there is a right of appeal.

2. The meeting between the Assistant Chief Executive and the driver and his or her representative (if present) shall take the form of a discussion within which the Assistant Chief Executive will seek the driver's comments upon the allegations made against him or her. If the Assistant Chief Executive considers it necessary to make further enquiries he will explain this to the driver and adjourn the meeting to enable such enquiries to be made. In the event that following such enquiries the Assistant Chief Executive decides that no further action is required (or that the only action which may be required is that which has been discussed with the driver at the meeting) then the Assistant Chief Executive will write to the driver accordingly. In any other case the Assistant Chief Executive will reconvene the meeting.
3. At the conclusion of the meeting or any adjournment thereof, the Assistant Chief Executive will inform the driver whether or not he considers the allegations have been made out and in the latter event what sanction (being a suspension of not more than 14 days) the Assistant Chief Executive intends to impose.
4. In the event the Assistant Chief Executive decides that the licence should be suspended the Assistant Chief Executive will inform the driver of his or her right of appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
5. As soon as is reasonably practicable after the meeting the Assistant Chief Executive will notify members of the licensing committee of the suspension by e-mail and write to the driver
 - a. Confirming the decision
 - b. Confirming the sanction.
 - c. Giving reasons for a. and b. above.
 - d. Giving details of the appeal procedure and the fee payable to the court on appeal.
 - e. Unless the suspension is taking immediate effect on the grounds of public safety, informing the driver of his or her right to drive during the period within which an appeal may be lodged, if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

Procedure - Decisions by the Licensing Committee

Where a decision would fall outside of the delegated powers of the Assistant Chief Executive or where the Assistant Chief Executive considers that his delegated powers would not be sufficient to deal with an allegation, then the matter will be determined by the Licensing Committee and the following procedures will apply:

1. At least 4 members of the Licensing Committee will be requested to attend a meeting of the Committee for the purpose of considering the allegations.
2. Usually, the committee meetings will be held in public although consideration of matters which would not otherwise be in the public domain (e.g. consideration of a driver's medical condition, details of spent convictions etc) would require the committee meeting to be held in private.
3. The driver will be given written notice of the time and date of the committee meeting at least 10 working days prior to the meeting taking place and at the same time will be provided with a copy of the officer's report which will be presented to the committee along with any supporting documents.
4. The letter notifying the driver of the time and date of the meeting shall also inform him or her of his or her right to be represented at the meeting by his or her operator, a trade union representative or a friend.
5. Having considered the officer's report, any evidence which the officer wishes to tender in support of his report (which shall have been disclosed in advance to the driver), any evidence from the driver, any evidence from witnesses called by or on behalf of the driver and any submissions made by the driver and/or his or her representative, the committee will retire to consider its decision and will upon returning announce its decision to the driver.
6. The committee shall give verbal reasons for its decision and in the event that the committee decide to suspend, revoke or not to renew a licence the lead officer of the committee shall explain to the driver his or her right to appeal to a magistrates court and (save for in cases where an immediate suspension is required in the interest of public safety) shall inform the driver of his or her right to continue to drive until the time for lodging an appeal has lapsed or (if an appeal is lodged within that period) until such time as the appeal has been determined or abandoned.
7. As soon as is reasonably practicable after the committee meeting, the lead officer to the committee shall write to the driver confirming
 - a. the committee's decision
 - b. any sanction imposed.
 - c. the committee's reasons for a. and b. above.

- d. Giving details of the appeal procedure and the fee payable to the court on appeal.
- e. Unless the suspension is taking immediate effect on the grounds of public safety, informing the driver of his or her right to drive during the period within which an appeal may be lodged, if an appeal is lodged within that period to drive until such time as the appeal has been disposed of or abandoned and informing the driver of the dates the suspension will be effective in the event that an appeal is not lodged.

Principles to be applied in decision making

The express aims of the licensing regime are the safety and comfort of the public. Safety extends not only to fare paying passengers but also to other road users and pedestrians. When considering the grant of a licence a local authority may not grant a licence to anyone unless they are satisfied that the applicant is a fit and proper person to hold a licence. Where the committee cease to be satisfied for any reason that a driver is a fit and proper person it follows that he or she should not be in possession of a licence and in those circumstances the licence will either be revoked or not renewed on application. There will however be other circumstances where there has been some action or inaction on the part of a driver which has not rendered the driver an unfit person but nevertheless warrants a sanction both as a mark of disapproval of the driver's conduct and as a deterrent to others. In such circumstances, a suspension of the licence would be appropriate. In determining whether to suspend a licence and if so in determining the length of suspension, regard will be had by the Licensing Committee or by the Assistant Chief Executive in the exercise of delegated powers to the following factors:

1. Whether the driver fully admitted the matter alleged or whether he or she put forward explanations which were wholly unsustainable.
2. The seriousness of the matter complained of.
3. The driver's past history.
4. Whether the driver has suffered any other penalty in respect of the matters complained of.
5. Any aggravating factors
6. Any mitigation put forward by the driver or his or her representative.
7. The financial effect of any suspension upon the driver acknowledging that he or she will not be able to earn an income from driving during the period of any suspension.