

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	6 th November 2017
Report of:	Licensing Team Leader
Subject/Title:	Details of Licensed Vehicles Suspended
Portfolio Holder:	Cllr Ainsley Arnold – Housing and Planning

1.0 Report Summary

- 1.1 This report sets out the licensed vehicles suspended by Licensing Officers for the period 1st January 2017 to 30th September 2017.

2.0 Recommendation

- 2.1 That Members note the content of the report and the details in Appendix 1.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee's scheme of delegations provides that Members be informed of the vehicles suspended under powers delegated to Officers.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 None identified

7.0 Financial Implications

- 7.1 None identified

8.0 Legal Implications

- 8.1 The Local Government (Miscellaneous Provisions) Act 1976 provides the Licensing Authority with two ways to suspend licenced vehicles.

- 8.2 Section 60 Local Government (Miscellaneous Provisions) Act 1976 - Suspension and revocation of vehicle licences:

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefore under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds—

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- (c) any other reasonable cause.

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.

(3) Any proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

8.3 Section 68 Local Government (Miscellaneous Provisions) Act 1976

Fitness of hackney carriages and private hire vehicles:

Any authorised officer of the Council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining fitness, any hackney carriage or private hire vehicle licensed by the County Borough Council or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of the taximeter he may by notice in writing require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied.

Provided that, if the authorised officer or constable is not so satisfied before the expiration of a period of two months, the said licence shall, by virtue of this section, be deemed to have been revoked and subsections (2) and (3) of Section 60 of this Act (i.e. Notice of Revocation and Right of Appeal, respectively) shall apply with any necessary modifications.

9.0 Risk Management

9.1 There is an opportunity to appeal against a suspension under section 60 of the Act as soon as the Notice is issued. In respect of a suspension under section 68 a right of appeal does not apply until a notice of revocation is issued.

10.0 Background and Options

10.1 The Council's Scheme of Delegations makes provision for Officers to suspend vehicles in certain circumstances. This would include:

- Where the vehicle is in breach of a Council condition (eg failed to attend a 6 month test or incorrect signage),
- A breach of legislation or byelaws (eg not having a meter in a hackney carriage)
- Accident damage to the vehicle
- Where the vehicle is not fit for use (ie invalid or expired insurance)

10.2 There are two powers of suspension conferred upon officers under the Council's Scheme of Delegation. These are:

- I. Section 60 of the Local Government (Miscellaneous Provisions) Act 1976. The suspension does not date effect until 21 days after the service of the suspension notice. There is an immediate right of appeal to the Magistrates' Court. Where an appeal has been logged the suspension does not take effect until the appeal has been disposed of, unless the suspension is over turned.
- II. Section 68 of the Local Government (Miscellaneous Provisions) Act 1976. The suspension takes immediate effect upon service of the suspension notice. If the vehicle is not presented for test/inspection (and passes) within two month an automatic notice of revocation of the licence is issued. There is then a right of appeal to the Magistrates' Court where a revocation notice is issued.

10.3 In practice, most suspensions are issued under section 68 of the Local Government (Miscellaneous Provisions) Act 1976. This is because the suspension takes immediate effect and adequately deals with potentially unfit, unsafe or unsuitable vehicles.

10.4 In addition, to the suspension notice issued, the relevant Enforcement Officer will also issue a notice under section 58 of the Local Government (Miscellaneous Provisions) Act 1976. This notice requires the return of the vehicle licence and plates.

10.5 The Licensing Team periodically reports these suspensions to the Licensing Committee.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Miss Kim Evans
 Designation: Licensing Team Leader
 Tel No: 0300 123 5015
 Email: kim.evans@cheshireeast.gov.uk