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| MEETING: | REGULATORY SUB COMMITTEE |
| DATE: | 25 APRIL 2013 |
| TITLE OF REPORT: | FITNESS OF VEHICLE H055 (FRONT OFFSIDE TYRE EXPOSED INTERNAL STRUCTURE AND H275 (TWO DEFECTIVE FRONT TYRES) FOLLOWING VOSA INSPECTION |
| PORTFOLIO AREA: | LICENSING :ENVIRONMENTAL HEALTH AND TRADING STANDARDS |

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To determine if the proprietor and vehicles remain suitable to be licensed.

Key Decision

This is not a Key Decision.

Recommendation(s)

THAT Committee:

- (a) **Issue 4 Penalty Points for each vehicle for a breach of Standard Condition B10 (Failure by driver or proprietor to take reasonable precautions to ensure the safety of passengers);**
- (b) **and issue a final warning, that if the vehicle is found with defective tyres in the future the licences will be revoked and the vehicles will not be able to be licensed in Herefordshire in the future.**

Key Points Summary

- Vehicle proprietor is Lina Hussini
- Inspections carried out by VOSA and West Mercia.
- The vehicle AE03UGC, VW Passat, Plate No:**H055**, Front off-side tyre worn down to expose internal structure of tyre.

Further information on the subject of this report is available from
Claire Corfield Licensing Manager 01432 383324

- The vehicle MV53YRC, Blue Peugeot 406LX estate, Plate no:**H275**, vehicle had two defective front tyres
- Further consideration regarding the fitness of the proprietor to retain the licence.
- Deferred from the last meeting.

Alternative Options

- 1 **Revoke the vehicle licences – Advantages – ensures compliance with safety of passengers by ensuring the vehicles are safely maintained. Disadvantages – the proprietor could Appeal the decision to revoke.**

Defer the decision – Advantages – will allow further information to be supplied if it is deemed necessary. Disadvantages – further delays the decision

Reasons for Recommendations

- 2 The recommendation has been made as the proprietor claims she was unaware of the defective tyres, the drivers have already been sent Penalty Points, but the primary responsibility remains that of the vehicle proprietor.

Introduction and Background

- 3 The licences are owned by Mrs Lina Hussini.

VOSA and West Mercia undertook a joint vehicle check at Blackmarsden School on 6/3/2013. During the inspection a number of vehicles were found to have defects or other problems. H055 and H275 both were found with defective tyres.

Mrs Hussini and her Husband Mr Issam Bairkdar own a further 22 licensed vehicles between them. It is understood that Mr Bairkdar is the primary person who is responsible for the vehicles.

Due to the fact that the vehicles were and are being used for transporting children, it was felt that the matter was serious and warranted a referral to Regulatory Sub Committee for determination.

The matter has been deferred from the last meeting as Mrs Hussini did not attend or provide written authority for her husband to represent her.

Key Considerations

- 4 On the balance of probabilities, is the vehicle proprietor able to retain the licence and maintain control of the vehicle. Is there a risk that she will once again allow the vehicles to be run with defective tyres or other defects, because she does not have day to day control over the business?

Community Impact

5. Ms Hussini and her husband operates 22 other licensed vehicles. Their company undertakes a number of school and other contracts for the Council therefore drives some of the County's most vulnerable people around on school taxi contracts and bus runs. The most recent VOSA and Police inspection was carried out at Blackmarsden School.

Financial Implications

6 There are no financial implications for the Council only for the vehicle proprietor.

Legal Implications

S60 (1) of the TPCA 1847 states

7 A district Council may suspend or revoke a vehicle licence on the following grounds:-

- b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the proprietor or driver; or
- c) any other reasonable cause

Risk Management

9 There is a reputational risk to the Council as it awards contracts for transport services, which covers school transport. If the vehicles are not operated within the Regulations the insurance will be voided and the passengers will be travelling without any cover. A claim could be made against the Council if the vehicle was not adequately insured defective or not operated within the statutory requirements.

Consultees

10 Not applicable

Appendices

11 Copy of West Mercia e-mail

Background Papers

- None identified.