

Licensing Committee

Friday, 3rd October, 2014

2.00 - 3.00 pm

Attendees	
Councillors:	Diggory Seacome (Vice-Chair, in the Chair), Andrew Chard, Garth Barnes, Adam Lillywhite, Anne Regan, Rob Reid and Jon Walklett
Also in attendance:	Vikki Fennell and Andy Fox

Minutes

1. APOLOGIES

Apologies were received from Councillors Roger Whyborn and Pat Thornton.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. PUBLIC QUESTIONS

There were no public questions.

4. MINUTES OF MEETING HELD ON 5 SEPTEMBER 2014

The minutes of the Licensing Committee held on 5 September 2014 were approved and signed as a true record.

5. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report concerning the renewal of Mr Kirit Jaientilal's Hackney Carriage driver's licence which was due for renewal on 28 February 2015. He informed Members that Mr Jaientilal was subject to a vehicle inspection on 5 September 2014 by Licensing Officers and officers from Gloucestershire Constabulary and that on inspection it was found that the vehicle had three tyres worn below the legal limit. The vehicle was immediately suspended by the Licensing Officer.

Appendix A showed photographs of the tyres and Appendix B was a copy of the inspection report.

Mr Jaientilal produced the vehicle for re-inspection at the Licensing Office the following morning and the Licensing Officer confirmed that the vehicle had three new tyres. The Licensing Officer informed Members that had the Police Traffic Officers been present at the vehicle inspection, Mr Jaientilal's vehicle would have been impounded and he would have received a heavy fine and penalty points.

In response to questions from Members, the Officer confirmed that:

- Ordinary local police could not impound a vehicle, it had to be Traffic Police, who were not present on this occasion.
- All three tyres were below the legal thread, although it was difficult to capture this in the pictures provided.
- The vehicle had been in this condition for at least 6 weeks although Mr Jaientil had been on holiday for a good proportion of this time.
- A Hackney Carriage driver's licence did allow school runs. However Mr Jaientil informed members that he did not operate any school runs.

Mr Jaientil attended the meeting and spoke in support of his review. He informed Members that it was his first evening out after returning from holiday and his first time out for about a month as his father had been ill prior to his holiday. He said that he was concerned about one of the tyres in particular and that the tracking might not be right, but that he normally checked his tyres once a month with a gauge. He apologised to members sincerely about this situation saying it was his livelihood, he felt bad about it and that he never knowingly would drive like that. It was the first time it had happened.

Members asked some questions of Mr Jaientil, who in reply stated that:

- He had been a taxi driver since 1995 formerly with Starline and had had a Hackney Carriage Licence for 5 years.
- He was the only driver of this car.
- He had purchased a new tyre gauge.
- The tracking was cutting from the inside so he was not fully aware of the state of the tyres.
- That he normally bought new tyres but with the tyres concerned two had been newly bought and one was a rethread.

Members were advised that they had the following recommendations to determine and following discussion it was agreed to ask Mr Jaientil to attend a driver's awareness course.

1. Mr Jaientil's Hackney Carriage driver's licence be continued with no further action because the Committee was satisfied that Mr Jaientil was a fit and proper person to hold such a licence, or
2. Mr Jaientil's Hackney Carriage driver's licence be revoked as the Committee considered him not a fit and proper person to hold a Hackney Carriage driver's licence because he failed to maintain his vehicle in a roadworthy condition.

Upon a vote it was (5 for, 2 against)

RESOLVED, that Mr Jaientil's Hackney Carriage driver's licence be continued, because the Committee was satisfied that Mr Jaientil was a fit and proper person to hold such a licence and that Mr Jaientil attend the driver's awareness course.

6. REVIEW OF PRIVATE HIRE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report concerning the renewal of Mr Rowshan Ghanbary's private hire driver's licence which was due

for renewal on 15 March 2016. He informed Members that Mr Ghanbary had convictions on his DVLA driving licence.

The Officer advised that Mr Ghanbary reported in June his first set of points acquired in January and then in September reported another two sets of points, at which point his licence was copied and placed on file. Prior to this no complaints had been received about Mr Ghanbary's driving since the granting of his licence in March 2012. The Officer did bring Members' attention to the fact that one of the offences had been recorded by mistake as having taken place in 2004 instead of in 2014. The mistake was verified by DVLA.

Mr Ghanbary attended the meeting and spoke in support of his review. He informed Members that he had been in this country for 7 years and had had a driving licence for 5 years and these were the first offences which had all unfortunately occurred in a six month period. He continued that he very much regretted these 3 mistakes and knew that he had to respect the rules of this country if he wanted to stay. He said that this had taught him a lesson and made him reflect on his driving as he didn't want to lose his licence.

In response to questions from Members, Mr Ghanbary answered that:

- The first offence was committed when he was with his girlfriend on a personal trip and not a business trip as a taxi operator.
- On the second offence he didn't see the mobile van and was going into a 50mph zone and therefore was accelerating.
- On the third offence it was late at night and he was tired after a busy night shift and it was a mistake. He said he was now a better driver because of these mistakes.
- He drove 40-50 hours a week as a taxi driver.
- He was aware that he would lose his driving licence with 12 points and thus would be 100% more careful as this was his last chance and that they had all been genuine errors.

Members were advised that they had the following recommendations to determine:

1. Mr Ghanbary's Private Hire driver's licence be continued with no further action, because the Committee was satisfied that Mr Ghanbary was a fit and proper person to hold such a licence; or
2. Mr Ghanbary's Private Hire driver's licence be revoked as the Committee considered Mr Ghanbary not to be a fit and proper person to hold a Private Hire driver's licence.

Members were also advised that if they allowed Mr Ghanbary's licence to continue, they had the option of adding a requirement that Mr Ghanbary must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision, and that Mr Ghanbary had offered to do this if required.

Upon a vote it was (5 for, 2 against)

RESOLVED, that Mr Ghanbary's Private Hire driver's licence be continued, because the Committee was satisfied that Mr Ghanbary was a fit and

proper person to hold such a licence and that Mr Ghanbary must successfully pass the approved road safety driving assessment test within 3 months of the date of this meeting.

7. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer, Andy Fox, introduced the report concerning the renewal of Mr Benit Harish Santilal's Hackney Carriage driver's licence which was due for renewal on 26 March 2015. He informed Members that Mr Santilal had convictions on his DVLA driving licence.

The Officer informed Members that since Mr Santilal was granted his licence in 2006, no complaints regarding his driving ability had been received. Mr Santilal reported his offence to the Licensing section and on being interviewed, he explained that he had gone to London in his sister's car and that as she was tired he had driven as he thought he was insured to do so. The Officer confirmed that the vehicle he was driving was not a licensed vehicle.

Mr Santilal attended the meeting and spoke in support of his review. He informed Members that he thought his own insurance covered him third party to drive his sister's car and hence he drove.

In response to a question from a Member, Mr Santilal confirmed that his own insurance was fully comprehensive and that he had never been uninsured.

Members questioned the Officer about why the police would discover he was uninsured if the above statement from Mr Santilal was true. The Officer replied that the correct paperwork and valid insurance certificate, albeit a temporary cover note for the period 4 December 2013 to 3 January 2014, had been produced when he had applied for a licence renewal. Mr Santilal confirmed to Members that he was insured from 3 January 2014 onwards and at the date of the offence of 8 July.

It was suggested by the Officer that Mr Santilal should ring his insurance company to confirm if he was fully comprehensively insured from 3 January 2014 and thus covered to drive third party and to ask the insurance company to send an email with a copy of the certificate.

Members remained in the Chamber whilst the Licensing Officer accompanied Mr Santilal to make the phone call.

On returning to the Chamber, the Officer reported that he had spoken with Mr Santilal's insurance company and had been informed that it was at the discretion of individual insurance company's policies as to whether someone was covered to drive another car on their own insurance. He could, however, confirm that Mr Santilal had been insured for the period of his licence, but that he was not insured third party to drive other cars. Mr Santilal's conviction was therefore correct, but he himself was unaware of the variances of insurance companies.

One Member felt that many people would be unaware of this variance and think they were covered for third party insurance on other cars.

Members were advised that they had the following recommendations to determine:

1. Mr Santilal's Hackney Carriage driver's licence be continued with no further action, because the Committee was satisfied that Mr Santilal was a fit and proper person to hold such a licence; or
2. Mr Santilal's Hackney Carriage driver's licence be revoked as the Committee considered Mr Santilal not to be a fit and proper person to hold a Hackney Carriage driver's licence.

Members were advised that if they allowed Mr Santilal's licence to continue, they had the option of adding a requirement that Mr Santilal must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision.

Upon a vote it was (6 for, 1 against)

RESOLVED, that Mr Santilal's Hackney Carriage driver's licence be continued with no further action, because the Committee was satisfied that Mr Santilal was a fit and proper person to hold such a licence and that Mr Santilal did not need to attend the driving assessment test.

At the conclusion of this item, Members raised some issues with regard to the driver assessment course and routine vehicle checks. One Member felt that there should be stricter rules on tyres, speeding and insurance cover and that if a driver applied for a licence with a temporary insurance cover note then a follow up should be made to ensure permanent insurance cover was in place. Similarly it was felt that driver assessment examiners should be aware of the reason for the test, so that particular observance could be placed on that particular issue, be it speeding or the condition of the vehicle and that feedback be given. The Officer informed Members that this was being reviewed at the moment with the Driving Standards Agency.

8. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

None.

9. DATE OF NEXT MEETING

7 November 2014.

Chairman