

# Cheltenham Borough Council

## Licensing Committee – 1 August 2014

### Renewal of Private Hire Driver's Licence

#### Mr Akekur Babu Rahman - PHD369

### Report of the Licensing & Business Support Team Leader

#### 1. Executive Summary and Recommendation

1.1 An application has been received from Mr Akekur Rahman for a renewal of his Private Hire driver's licence.

1.2 Mr Rahman has a number of convictions. The details of these are contained in the enclosed background papers.

1.3 In light of this Members of the Committee should be aware of the convictions because of:

1.3.1 The nature of the offences; and

1.3.2 The need to ensure that Mr Rahman is judged to be a fit and proper person to hold a Private Hire Driver's Licence.

1.4 **The Committee is recommended to resolve that Mr Rahman's renewal be:**

1.4.1 **granted with no further action taken as the committee considers Mr Rahman to be a fit and proper person to hold a private hire driver's licence, or**

1.4.2 **revoked as the committee considers Mr Rahman to no longer be a fit and proper person to hold private hire driver's licence.**

#### 1.5 Implications

1.5.1 Financial

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1.5.2 Legal

There is a right of appeal against a refusal to renew a licence which, in the first instance, is to the Magistrates' Court.  
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#### 2. Background

2.1 The Borough Council must be satisfied that the holder of a Private Hire Drivers licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

#### 3. Policy Considerations

3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the

Licensee/Applicant and the risks to the safety and comfort of the public.

- 3.2 Each case will be decided on its own merits. The Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

### 3.5 Hybrid Traffic Offences

- CU10 Using vehicle with defective brakes
- CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
- CU30 Using a vehicle with defective tyre(s)
- CU40 Using a vehicle with defective steering
- CU50 Causing or likely to cause danger by reason of load or passengers
- CU80 Using a mobile phone while driving a motor vehicle
- SP10 Exceeding goods vehicle speed limit
- SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
- SP30 Exceeding statutory speed limit on a public road
- SP40 Exceeding passenger vehicle speed limit
- SP50 Exceeding speed limit on a motorway
- SP60 Undefined speed limit offence

- 3.6 Offences of the type listed above will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

### 3.7 Minor Traffic Offences

Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.

In particular, an application will normally be refused where the applicant has received 12 or more penalty points on his DVLA licence in the five years prior to the application being made (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

## 4. Licensing Comments

- 4.1 Mr Rahman was interviewed on 8 July 2014. The interview notes state:

“Mr Rahman struggled to remember any details of the offence committed on 30/09/2012 for exceeding the speed limit and said he thought this was already dealt with in the previous committee in June 2012. It was explained to Mr Rahman that the offence occurred three months after the date of committee. Mr Rahman did not notify the local authority of any points received for the offence.

Mr Rahman explained that the offence committed on 03/05/2013 was for speeding on the M5. There was a speed restriction of 50MPH on the M5 due to roadworks, Mr Rahman attempted to slow down when approaching the speed restriction but was still over the limit. Mr Rahman did not notify the local authority of any points received for the offence.

Mr Rahman also explained that he did not report the offence as he was waiting for his DVLA licence to be returned.”

- 4.2 For information, Mr Rahman’s licence was reviewed in June 2012 and whilst the committee decided not to take any formal action then, Mr Rahman was warned at the time of safe driving techniques and warned that his licence will again be called in for review should he not heed the Council’s warning. A copy of that letter is attached at **Appendix A**.
- 4.3 Mr Akekur Babu Rahman has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members’ questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 4.4 The Committee must be satisfied that Mr Akekur Babu Rahman is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

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**Background Papers**

Service Records

Convictions

Committee report and minutes – June 2012

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