

Cheltenham Borough Council

Licensing Committee – 3rd October 2014

Review of a Hackney Carriage Driver's Licence

Mr Kirit Jaientilal – HCD805

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Kirit Jaientilal holds a Hackney Carriage driver's licence HCD805 which is due for renewal on 28th February 2015.
- 1.2 Mr Jaientilal holds a Hackney Carriage vehicle licence (HCV072), which is a Toyota Avensis registration number VO11HZX.
- 1.3 Mr Jaientilal was subject to a vehicle inspection on 5th September 2014 by the Licensing officers and officers from Gloucestershire Constabulary. On inspection the Licensing officers found that the vehicle had 3 (Three) tyres worn below legal limit.
- 1.4 Photographs were taken at the time of the inspection, although these do not show the true extent due to the time and poor visibility and are attached at **Appendix A**. Also a copy of the inspection report from the evening at **Appendix B**.
- 1.5 In light of this the Licensing & Business Support Team Leader has taken the view that Members of Committee should be aware of the offences because of:
 - 1.6 The nature of the offence; and,
 - 1.7 The need to ensure that, Mr Jaientilal is judged to be a fit and proper person to hold a Hackney Carriage driver's licence.
- 1.8 **The Committee is recommended to resolve that:**
 - 1.8.1 **Mr Jaientilal's Hackney Carriage driver's licence be continued with no further action because the Committee is satisfied that Mr Jaientilal is a fit and proper person to hold such a licence, or**
 - 1.8.2 **Mr Jaientilal' Hackney Carriage driver's licence be revoked as the Committee considers 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.**

1.9 Implications

- 1.9.1 Financial

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- 1.9.2 Legal There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.

The Borough Council has the ability to suspend or revoke a Hackney Carriage driver's licence with immediate effect if necessary in the interests of safety. There is a right of appeal against a suspension or revocation of 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 Hackney Carriage 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.

Maintenance of Vehicle

- 3.5 The vehicle, all of its fittings and any attached equipment shall at all times when the vehicle is in use or available for hire, be kept in a clean, safe, tidy and efficient state, and must also comply with all relevant statutory provisions including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986.

Tyres

- 3.6 All tyres fitted to the vehicle or carried as a spare must comply with the Motor Vehicles (Construction and Use) Regulations 1986 and Motor Vehicle (Tests) Regulations 1981.
- 3.7 The carrying and use of Space saver tyres and tyre sealant kits will only be approved with the support of a method statement. The method statement will detail the drivers' and vehicle owners' responsibility with regard to the maximum permitted speed and restrictions of use and highlight that they are ONLY a temporary measure to complete the journey in which the puncture occurred. An approved repair to BS AU159 or a replacement tyre must be undertaken before any further fares are carried.
- 3.8 Run flat tyres fitted to any vehicle by the manufacturer will not be replaced by any other type or make either individually or all of them. The use of these tyres must be supported by a method

statement (such as the manufacturer's handbook for the vehicle) specifying the capability and restrictions of use following a puncture. In all cases the Tyre Pressure Monitoring System (TPMS) must be working correctly and if required, be reset when a tyre(s) are renewed or replaced. Worn or damaged run flat tyres must be replaced by the same make and size.

4. Licensing Comments

- 4.1 Mr Andy Fox - Senior Licensing Officer immediately suspended the vehicle, Mr Jaientil expressed concern that he would now have to wait for his plate to be returned until Monday and would lose out on a weekend's work. Mr Jaientil produced the vehicle for inspection at the Licensing Office on the Saturday morning after officers made themselves available.
- 4.2 It is worth noting that had Police Traffic officers been in attendance then this vehicle would have been impounded and resulted in Mr Jaientil facing a court summons, where he would have been given a heavy fine and had penalty points added to his DVLA Licence. Unfortunately on this occasion we were not able to get the support of the Traffic Officers for this exercise.
- 4.3 The vehicle was inspected by Mr Andy Fox who confirmed that the vehicle had 3 new tyres fitted. Mr Jaientil explained at the time of the incident to the Police Officer that he was worried that he thought one of the tyres was a bit low, before he went on holiday (about a month ago!).
- 4.4 When interviewed on 11 September 2014, Mr Jaientil was asked how often he checked his vehicle, he replied "when necessary, about once a month". Andy Fox stated that as a 'Professional driver' this is not adequate or acceptable. He has apologised and explained that he has now bought himself a tyre gauge and will check his tyres regularly.
- 4.5 Mr Jaientil 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.
- 4.6 The Committee must be satisfied that Mr Jaientil 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.
- 4.7 The maintenance of all licensed vehicles should be the priority for the vehicle proprietor as the transportation of the public is a position of trust.

Background Papers

None

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