

Cheltenham Borough Council

Licensing Committee – 3rd October 2014

Review of a Hackney Carriage Driver's Licence

Mr Benit Harish Santilal – HCD821

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

1.1 Mr Benit Harish Santilal holds a Hackney Carriage driver's licence HCD821 which is due for renewal on 26 March 2015.

1.2 Mr Santilal has convictions on his DVLA driving licence. The details of these are contained in the enclosed background papers.

1.3 In light of this the Licensing & Business Support Team Leader has taken the view that Members of Committee should be aware of the convictions because of:

1.3.1 The nature of the offence; and,

1.3.2 The need to ensure that Mr Santilal is judged to be a fit and proper person to hold a Hackney Carriage driver's licence.

1.4 The Committee is recommended to resolve that:

1.4.1 **Mr Santilal's Hackney Carriage driver's licence be continued with no further action, because the Committee is satisfied that Mr Santilal is a fit and proper person to hold such a licence; or**

1.4.2 **Mr Santilal's Hackney Carriage driver's licence be revoked as the Committee considers Mr Santilal not to be a fit and proper person to hold a Hackney Carriage driver's licence.**

1.5 Implications

1.5.1 Financial

Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125

1.5.2 Legal

There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates' Court.

Contact officer: Vikki Fennell
E-mail: Vikki.Fennell@tewkesbury.gov.uk
Tel no: 01684 272015

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).

- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.
- 2.3 The question for the committee is therefore whether, given the nature of the convictions, the applicant is a fit and proper person to hold a licence.

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 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.3 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.4 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.
- 3.5 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.

Major Traffic Offences

- 3.6 An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

4. Licensing Comments

- 4.1 Mr Santilal has been a licensed Hackney Carriage driver in Cheltenham since making his original application in March 2006.
- 4.2 Since the grant of Mr Santilal's Hackney Carriage driver's licence in March 2006, the Licensing Section have not received any complaints regarding Mr Santilal's driving ability.
- 4.3 Mr Santilal came in to the Council Offices and completed a Points Notification form where he declared an IN10 offence on the 8th July 2014 which is a major offence of driving without insurance.
- 4.4 Mr Santilal was interviewed by Andy Fox the Senior Licensing Officer. Mr Santilal explained that he had gone to London in his sisters car and that she was tired so he drove, he thought he was insured. The vehicle he was driving was not a licensed vehicle.
- 4.3 If Members are minded to allow Mr Santilal's licence to continue, they have 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.

- 4.4 Mr Santilal 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.
- 4.5 The Committee must be satisfied that Mr Santilal 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.

Background Papers**Service Records****Report Author**

Contact officer: Andy Fox
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775004