

Cheltenham Borough Council

Licensing Committee – 4 September 2015

Renewal of Private Hire Driver's Licence

Mr Mohammed Akil Miah

Report of the Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Mohammed Akil Miah has applied for a Private Hire driver's licence.
- 1.2 Mr Miah 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 Miah 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 Miah's application be:**
- 1.4.1 **granted as the Committee considers Mr Miah to be a fit and proper person to hold a Private Hire driver's licence, or**
- 1.4.2 **refused as the Committee considers Mr Miah not to 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 Driver's 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 In general an applicant with convictions for violence, as listed below (or similar offences), which are less than 5 years old, is unlikely to be considered favourably.
- a. Common assault
 - b. Affray
 - c. S5 Public Order Act 1986 offence (harassment, alarm or distress)
 - d. S.4 Public Order Act 1986 offence (fear of provocation of violence)
 - e. S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - f. Obstruction
 - g. Possession of offensive weapon
 - h. Criminal damage
- 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.
- 3.7 More than one conviction for this type of offence within the last 5 years is likely to merit refusal.
- 3.8 Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.

4. Licensing Comments

- 4.1 Mr Miah has been interviewed about all of his convictions and an account of that interview is enclosed with the background papers to the report. Members will note that in certain respects Mr Miah's explanation differs from that provided by the police and Members may wish to ask Mr Miah to clarify those points.
- 4.2 The Council has a statutory duty to be satisfied that the people to whom it grants private hire licences are fit and proper people to hold such a licence, and the safety of the public is the overriding factor that Members should take into account.

- 4.3 If the Committee is satisfied that Mr Miah is a fit and proper person to hold a Private Hire driver's licence, it will be subject to Mr Miah's successful completion of all the assessments required in accordance with the Council's current policy including the Driver Vehicle Standard Agency's enhanced driving test, and the Council's knowledge test and English proficiency test.
- 4.4 Mr Miah 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.

Background Papers**Service Records**

Details of convictions

Account of interview conducted on 17 August 2015

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