

# **Cheltenham Borough Council**

## **Licensing Committee – 2 October 2015**

### **Review of a Hackney Carriage Driver's Licence**

#### **Mr Aditya Rai – HCD085**

#### **Report of the Senior Licensing Officer**

##### **1. Executive Summary and Recommendation**

- 1.1 Mr Rai Green holds Hackney Carriage driver's licence HCD085 which is due for renewal on 30 June 2015 (his renewal is progressing).
- 1.2 On Tuesday 8<sup>th</sup> September, Mr Rai notified the Council, by email to the Licensing and Business Support Manager that he had been charged with a number of offences. The details of the offences are outlined in the background papers.
- 1.3 Mr Rai did on second submission of his renewal application declare that he had a court hearing pending.
- 1.4 In light of this the Licensing Officers have taken the view that Members of Committee should be aware of the charges because of:
  - 1.4.1 The nature of the charges; and,
  - 1.4.2 The need to ensure that Mr Rai is judged to be a fit and proper person to hold a Hackney Carriage driver's licence.
- 1.5 **The Committee is recommended to resolve that:**
  - 1.5.1 **Mr Rai's Hackney Carriage driver's licence be continued with no further action, because the Committee is satisfied that Mr Aditya Rai is a fit and proper person to hold such a licence; or**
  - 1.5.2 **Mr Rai's 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.**

##### **1.6 Implications**

- 1.6.1 Financial
  - Contact officer: Sarah Didcote**  
**E-mail: [sarah.didcote@cheltenham.gov.uk](mailto:sarah.didcote@cheltenham.gov.uk)**  
**Tel no: 01242 264125**
- 1.6.2 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](mailto: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 The question for the committee is therefore whether, given the nature of the alleged offences, Mr Rai 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, charge, 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 Appendix J, paragraph 1 sets out the council's policy on offences of dishonesty.
- 3.6 It states:

### **New applicants**

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Passengers may include especially vulnerable people.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

For these reasons a serious view is taken of any convictions involving dishonesty. In general an applicant with convictions for dishonesty, as listed below, which are less than 4 years old, is unlikely to be considered favourably.

- a. Theft
- b. Burglary
- c. Fraud
- d. Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- e. Handling or receiving stolen goods

- f. Forgery
- g. Conspiracy to defraud
- h. Obtaining money or property by deception
- i. Other deception

### **Existing Licence Holders**

*An existing licence holder who is convicted of one or more of the above offences, is likely to have their licence revoked. In these circumstances, the applicant has the right of appeal to the Magistrates' Court, such appeal to be lodged within 21 days of the decision being notified.*  
[Emphasis added]

## **4. Licensing Comments**

- 4.1 The council has a statutory duty to ensure its licensed drivers are, and continue to be, fit and proper people.
- 4.2 Members are to note that the council's policy also makes reference to *charges* in relation to sexual and indecency offences.
- 4.3 Mr Rai made his original renewal application on 29 May 2015 and did not declare any pending court proceedings however officers were made aware of the pending case against Mr Rai.
- 4.4 Licensing then contacted Mr Rai and invited him into the offices and asked him whether he wished to reconsider how he had filled out the form, Mr Rai elected to complete a new application form dated 21 May 2015.
- 4.4 Finally, it is clearly relevant for the committee to take into consideration the fact that Mr Rai has been found guilty of the offences. However, the committee must bear in mind that it is not the Committee's role to make a judgement on Mr Rai's guilt or innocence.
- 4.5 The Committee's primary concern must be public safety. Therefore the Committee should take into account the situation and circumstance that have led to a charge and, taking these into account, determine whether Mr Rai is a fit and proper person.
- 4.6 Mr Aditya Rai 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.

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### **Background Papers**

### **Service Records**

### **Report Author**

**Contact officer:** Mr Andy Fox – Senior Licensing Officer  
**E-mail:** [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
**Tel no:** 01242 775004