

# Cheltenham Borough Council

## Licensing Committee – 6 November 2015

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

#### Mr Neil Spencer - HCD757

#### Report of the Licensing Officer

#### 1. Executive Summary and Recommendation

1.1 Mr Neil Spencer holds Hackney Carriage driver's licence HCD757 which is due for renewal on 4 February 2018.

1.2 The council has received a number of complaints from the public about Mr Spencer's behaviour. In light of this officers have taken the view that his Hackney Carriage driver's licence should be brought before the committee for a review.

1.3 The details and nature of these complaints are outlined in the attached background papers.

#### 1.4 The Committee is recommended to resolve that;

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

1.4.2 Mr Spencer's licence be revoked as the Committee considers Mr Spencer not 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**  
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**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).

#### 3. Policy Considerations

3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the licensee and the risks to the safety and comfort of the public.

3.2 In setting out its policy, the Council seeks to promote the following objectives:

- The protection of the public and public safety;
- Cheltenham Borough Council's priorities;
- *The establishment of a professional and respected licensed trade;*
- Access to an efficient and effective public transport service;
- The protection of the environment. (Page 3) [Emphasis added]

### 3.3 Fit & Proper Test

When an application is made for a Hackney Carriage or Private Hire driver's licence the Council must be satisfied that the applicant is a fit and proper person and shall not license drivers unless they are satisfied of this. *The onus is on the applicant to prove they are a fit and proper person, rather than for the Council to prove that they are not.* (Page 6) [Emphasis added]

3.4 If there is sufficient evidence that a person is not fit and proper or if there are grounds to question or doubt the evidence provided, that could amount to good reason to refuse a licence. (Page 6)

### 3.5 Code of Good Conduct for Licensed Drivers

3.6 Once a hackney carriage or private hire driver's licence has been granted, the licence holder will be subject to the Council's Code of Good Conduct for licensed drivers. A copy of the adopted Code of Good Conduct is attached at **Appendix A** for Members' information.

## 4. Licensing Comments

4.1 This matter was brought before the Licensing Committee on Friday 2<sup>nd</sup> October 2015. On that occasion the committee decided to defer the matter to give Mr Spencer the opportunity to familiarise himself with the background papers.

4.2 The committee must be satisfied that Mr Spencer continues to be a fit and proper person to hold a Hackney Carriage driver licence.

4.3 In assessing his fitness, Members must take into account the contents of the officer's report including the background papers, the council's adopted policy and Mr Spencer's explanation.

4.4 Whilst the council does not take decisions to revoke licences lightly, the establishment of a professional and respected licensed trade is also very important.

4.5 Members will note that the background papers contain copies of 2 witness statements (one signed by a complainant, the other by Mr Spencer). On each statement the occupation of the witness is shown as "Community Protection Officer". This should be disregarded as neither of the witnesses is a community protection officer.

4.6 Mr Neil Spencer 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

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