

Cheltenham Borough Council

Licensing Committee – 8 January 2016

Review of a Private Hire Driver's Licence

Mr Keith David Lewis - PHD116

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 Mr Keith David Lewis holds Private Hire driver's licence PHD116 which is due for renewal on 8 December 2016.
- 1.2 Mr Lewis has a number of penalty points on his driver's licence. The details of these are contained in the enclosed background papers. He also failed to declare these to the council in accordance with statutory and policy requirements.
- 1.3 In light of this an application for a review of Mr Lewis's Private Hire licence has been brought before the Committee to ensure that he remains a fit and proper person to hold such a licence.

1.4 The Committee can:

- 1.4.1 **Resolve that no further action be taken in respect of Mr Lewis's Private Hire driver's licence because the Committee is satisfied that he remains a fit and proper person to hold such a licence; or**
- 1.4.2 **Resolve that Mr Lewis be required to successfully complete a DVSA taxi driving test within 2 months and at his own expense; or**
- 1.4.3 **Resolve to revoke Mr Lewis's Private Hire driver's licence because the Committee considers him no longer a fit and proper person to hold a Private Hire driver's licence.**
- 1.4.4 **If the Committee resolves to revoke Mr Lewis's Private Hire driver's licence, it can further resolve to do so with immediate effect in the interest of public safety.**

1.5 Implications

- 1.5.1 Legal There is a right of appeal against a revocation of a licence is to the Magistrates' Court.

The Borough Council has the ability to suspend or revoke a private hire 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.

Contact officer: One Legal
E-mail: legalservices@tewkesbury.gov.uk
Tel no: 01684 272015

2. Background

2.1 The Borough Council must be satisfied that the holder of a Private Hire Drivers licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

3. Policy Considerations - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators

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 The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction.

3.6 For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

Motoring Convictions - Hybrid Traffic Offences

3.7 Hybrid offences will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or fewer penalty points for the offence.

Motoring Convictions – Existing Drivers

3.8 Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

3.9 Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence.

3.10 An existing licence holder who has 7 penalty points or more on his or her driving licence due to multiple offences, or 6 penalty points or more for one isolated offence, will be required to appear before the Licensing Committee to explain their convictions. The Committee then have the option to:

1. Take no further action
2. Give a written warning
3. Require the driver to pass a DVSA private hire/hackney drivers test, at the driver's own expense, within 2 months of their decision
4. Revoke the licence.

5. Refuse to renew the licence (if such an application is being considered)

4. Licensing Comments

- 4.1 Members must be satisfied that Mr Lewis remains a fit and proper person to hold a Private Hire driver's licence.
- 4.2 Members are to note that a check of Mr Lewis's driving licence was made following a complaint made to the council stating that Mr Lewis had told the complainant of the penalty points and the fact that he had not declared these to the council. Officers therefore question Mr Lewis's insistence that he was not aware of his duty to notify the council of the penalty points.
- 4.3 Furthermore, Mr Lewis correctly answered the question about the requirement to disclose convictions to the council in his knowledge test in 2013.
- 4.4 For the avoidance of doubt, there is a statutory obligation on licensed drivers to submit certain information to the council as prescribed by it. The council's policy states in respect of this "*Licence holders must notify the Council in writing within 7 days if he or she is convicted or cautioned for an offence or receives a fixed penalty notice.*"
- 4.5 Mr Keith David Lewis 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

Report Author

Contact officer: Mr Louis Krog
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200