

# Cheltenham Borough Council

## Licensing Committee – 12 January 2017

### 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 2019.

1.2 Mr Lewis has a number of driving convictions. The details of these are contained in the enclosed background papers.

#### 1.3 The Committee can resolve that:

1.3.1 Mr Lewis' Private Hire 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

1.3.2 Mr Lewis' Private Hire driver's licence be revoked as the Committee considers him to no longer be a fit and proper person to hold such a licence.

1.3.3 Subject to 1.3.2 above, that Mr Lewis' Private Hire driver's licence be revoked with immediate effect in the interest of public safety.

#### 1.5 Implications

1.5.1 Legal                                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.

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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 fit and proper 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 **Fit and Proper Person**

There is no absolute definition as to what constitutes a “fit and proper person”. However, considering the range of passengers that a driver may carry, for example, elderly people, unaccompanied children, people with disabilities, those who have had too much to drink, lone women and foreign visitors, the Council will want to have confidence that such people would be able to rely on the driver.

Some important areas that will be considered by the Council are:

- a. Honesty and trustworthiness – licensed drivers and operators often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. For example, any passenger would expect to be charged the correct fare for a journey and then given the correct change, they would also expect a driver to hand in any article left by a passenger in a vehicle, and also to maintain confidentiality between driver and fare.
- b. Courtesy - taxi drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. A driver will not be expected to have any convictions or cautions for offences of a violent or threatening nature.
- c. Consistently good and safe driving - those paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.
- d. Good knowledge of the area that they are working in.
- e. Good physical and mental health.
- f. Ability to read, speak and understand English, together with a working knowledge of arithmetic in giving the correct change, etc.

### 3.6 **Hybrid Traffic Offences**

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.

CU10 Using a vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

CU80 Breach of requirements as to control of the vehicle, mobile telephone etc

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

Aiding, abetting, counselling or procuring offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14)

Inciting offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

#### **4. Licensing Comments**

- 4.1 The council is under a statutory obligation to ensure that all its licensed drivers are and remain fit and proper people.
- 4.2 Mr Lewis has a number of driving related convictions totalling 12 penalty points. The details of these convictions are outlined in the accompanying background papers.
- 4.3 Members are to note that Mr Lewis previously appeared before the council's Licensing Committee on two occasions, 6 December 2013 and 8 January 2016. In January 2016 Mr Lewis was issued with a written warning as to his conduct as a licensed driver and the expectation that he is expected to maintain the highest level of safe driving.
- 4.4 Members are further to note that Mr Lewis did not report the latest penalty points to the council.
- 4.5 Members are to note that the pending appeal as referred to in the background papers is not relevant to the Committee's determination of the DVLA penalty points. This is due to the fact that 1) the appeal only relates to the sentence, not the points imposed, and 2) if the Magistrates' Court decision is upheld Mr Lewis' Private Hire drivers licence will automatically lapse or if Mr Lewis is successful in his appeal the Committee's decision will take effect.
- 4.6 Mr 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.

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#### **Background Papers**

Service Records

#### **Report Author**

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