

# Cheltenham Borough Council

## Licensing Committee – 31 May 2017

### Review of a Private Hire Driver's Licence

#### Mr David Beale - PHD309

#### Report of the Licensing Team Leader

#### 1. Executive Summary and Recommendation

- 1.1 Mr David Beale holds Private Hire driver's licence PHD309.
- 1.2 On 13 March 2017 a complaint was made to the council relating to Mr Beale. The details of that complaint are contained in the background papers.
- 1.3 In light of the above, officers have taken a view that Members of Committee should be aware of the matter because of:
- 1.3.1 The nature of it; and,
- 1.3.2 The need to ensure that Mr Beale continues to be judged a fit and proper person to hold a Private Hire driver's licence.
- 1.4 **The Committee is recommended to resolve that:**
- 1.4.1 **Mr Beale's 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**
- 1.4.2 **Mr Beale's Private Hire driver's licence be continued because the Committee is satisfied that he is a fit and proper person to hold such a licence but that he be issued with a written warning with regards to his conduct; or**
- 1.4.3 **Mr Beale's Private Hire driver's licence be revoked as the Committee considers him to no longer be a fit and proper person to hold a Private Hire driver's licence.**
- 1.4.4 **Subject to resolution 1.4.3, the Committee can also resolve that a revocation of Mr Beale's Private Hire licence can take immediate effect in the interest of public safety.**

#### 1.5 Implications

- 1.5.2 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 Accident Notification (para. 1.8)**

The council's policy in respect of the licensing of drivers and vehicles requires drivers to notify the council within 72 hours of any accident involving a licensed vehicle.

### **3.2 Code of Good Conduct for Licensed Drivers (Appendix A) – Relevant extracts**

- a) Ensure that where an incident occurs requiring the attendance of Police, that the Police are promptly alerted so that the offender may be dealt with in an appropriate manner.
- b) Make themselves available to Police for the taking of statements etc. following any incident in which they are involved and which requires Police investigation.

### **3.3 Renewing a Private Hire Vehicle licence (page 19) – Relevant extracts**

To apply to renew a licence an applicant must present to the council:

- Vehicle fitness test pass certificate;
- MOT pass certificate.

## **4. Licensing Comments**

- 4.1 The council is under duty to ensure that only people that are deemed fit and proper are issued with, and able to retain, in this case, a Private Hire driver's licence.
- 4.2 This report and the accompanying background papers outline the relevant issues that officers consider bring into question Mr Beale's fitness to continue to hold a Private Hire driver's licence.
- 4.3 As outlined in the report, the council's policy places certain duties on licensed drivers. These duties include a requirement on licensed drivers to notify the council of accidents and/or damage to their licences vehicles. Although Mr Beale claims he was not aware of the collision, he did admit there was damage to his vehicle which he failed to report to the council.
- 4.4 Notwithstanding the policy requirements, the duty to comply with statutory obligations remains that of the individual driver. In this case, the statutory obligation is to ensure that all road vehicles have a valid MOT, and in cases where this is not the case, the driver of that vehicle complies with the restrictions placed on them when driving that vehicle.
- 4.5 Members are to note that on 2 February 2017 a renewal reminder letter was sent to Mr Beale that included a reminder to also have the vehicle's MOT renewed in good time.
- 4.6 Although Mr Beale stated that he was unaware of the fact that he collided with a stationary vehicle, the fact that he admitted that there was damage to his vehicle consistent with the complainant's description of event, calls into question this assertion.
- 4.7 Mr Beale's vehicle insurance would also have been invalidated as a result of the fact that the vehicle did not have a valid MOT.
- 4.8 The vehicle in question is no longer licensed with Cheltenham Borough Council.

- 4.9 Whilst the bulk of this matter relates to the incident of colliding with the stationary vehicle and Mr Beale's failure to ensure his vehicle has a valid MOT, the question for the committee – as a consequence of the former issues – purely relates to his fitness to continue to drive.
- 4.10 Mr Beale 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

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