Cheltenham Borough Council

Licensing Sub-Committee – 4 October 2017

Review of a Private Hire Driver's Licence

Mr Mansour Mosayeb Khozani - PHD068

Report of the Licensing Officer

1. Summary and Recommendation

- 1.1 Mr Mansour Mosayeb Khozani holds private hire driver's licence PHD068 which is due for renewal on 16 February 2020.
- 1.2 Mr Khozani has a recent conviction, the details of which are contained in the enclosed background papers.
- 1.3 The sub-committee is recommended to resolve that:
- 1.3.1 Mr Khozani's private hire driver's licence be continued with no further action because the sub-committee is satisfied that he is a fit and proper person to hold such a licence; or
- 1.3.2 Mr Khozani's private hire driver's licence be revoked as the sub-committee considers he is no longer a fit and proper person to hold such a licence.
- 1.3.3 Subject to resolution 1.3.2, that Mr Khozani's private hire driver's licence be revoked with immediate effect in the interest of public safety.

1.4 Implications

1.4.1 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 Drivers licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

3. Policy Considerations

Appendix J - Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators

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3.1 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.

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.

Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.

When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.

A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings.

In the event that there are no relevant convictions, cautions or fixed penalties held, the applicant will be considered to be a "fit and proper person" and the matter will be determined by the issue of the licence [subject to the successful completion of all other assessments].

Applications where convictions, cautions or fixed penalties are held will be considered by a Licensing Officer who, having regard to this policy may refer the application to a Licensing Committee for determination. This will result in either the determination of the applicant as a "fit and proper person", indicated by the issue of a licence, or the application being refused. 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.

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.

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

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

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- 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.

4. Licensing Comments

- 4.1 There is a statutory duty on the council to ensure that people licensed as private hire drivers are, and remain, fit and proper people.
- 4.2 The information in the background papers calls into question Mr Khozani's fitness in terms of his honesty and trustworthiness.
- 4.3 Taking into account the information in this report, the background papers and the information provided by Mr Khozani during the meeting, Members should determine whether they are satisfied that he is a fit and proper person.
- 4.3 If Members determine that Mr Khozani's licence should be permitted to continue, Members may wish to instruct officers to issue Mr Khozani with a warning letter as to his future conduct which will remain on file should further complaints or convictions come to light.
- 4.5 Mr Khozani has been sent a copy of this report and invited to attend this meeting to speak in support of himself 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

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