

# Cheltenham Borough Council

## Licensing Sub-Committee – 7 February 2018

# Application for a Hackney Carriage Driver's Licence

**Mr Zohaib Hassan**

## Report of the Licensing Officer

## 1. Executive Summary

- 1.1 Mr Zohaib Hassan has applied for a Hackney Carriage Driver's licence.
- 1.2 Mr Hassan has penalty points on his DVLA driver's licence which he declared on his application form. Details of the offence are contained in the enclosed background papers.
- 1.3 In light of the offence and the information provided, the matter has been referred to the licensing sub-committee for members to determine whether Mr Hassan is a fit and proper person to hold a hackney carriage driver's licence.
- 1.4 **The sub-committee can:**
  - 1.4.1 **Grant Mr Hassan a Hackney Carriage driver's licence because the sub-committee considers him to be a fit and proper person to hold such a licence; or**
  - 1.4.2 **Refuse a Hackney Carriage driver's licence because the sub-committee does not consider him to be a fit and proper person to hold such a licence.**

## 1.5 Implications

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| 1.5.1 | Legal | There is a right of appeal against a refusal 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 Hackney Carriage 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 **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.

- 3.2 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. Experience
- 3.3 A driver's licence will not be granted unless the applicant has held a full UK driving licence (or recognised equivalent), for a minimum of 12 months prior to the application being made. The driving licence must be for the category of vehicle they will be licensed to drive, must have been free of convictions and endorsements for at least one year and be valid for the entire duration of the period for which they will be licensed as a private hire or hackney carriage driver.
- 3.4 **Major Traffic Offences**  
An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 1 year prior to the date of the application the application will normally be refused.
- 3.5 More than one conviction for this type of offence within the last 5 years is likely to merit refusal.
- 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.

#### HYBRID TRAFFIC OFFENCES

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 persons licensed as Hackney Carriage drivers are fit and proper people. Public safety is the council's primary concern and therefore applicants are expected to demonstrate a high standard of driving.
- 4.2 Mr Hassan has held a UK DVLA driving licence for more than 12 months so in that respect the application complies with the council's policy requirement, however the policy further states that the licence must have been free of convictions and endorsements for at least one year when the

application is made.

- 4.3 Members are advised that the offence committed is classed as a “hybrid traffic offence”. This means that it can be treated either as a minor offence or as a major offence, depending on how many penalty points were awarded. In this case more than 4 points were awarded which means that, under the council’s adopted policy, the offence should be treated as a major offence. Paragraph 3.4 above explains how major traffic offences should be viewed.
- 4.4 Members are advised that Mr Hassan has completed all of the tests, assessments and requirements to obtain a hackney carriage driver’s licence including a driving assessment. He has no recorded convictions or cautions beyond the endorsement on his DVLA driving licence.
- 4.5 Mr Zohaib Hassan 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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