

Cheltenham Borough Council

"Miscellaneous" Licensing Sub-committee – 5 February 2020

Review of a Hackney Carriage Driver's Licence

Mr Samir Jamshidi - HCD076

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 Mr Samir Jamshidi holds Hackney Carriage driver's licence HCD076 which is due for renewal on 20 January 2021.
- 1.2 On 09.01.2020, officers received a complaint that officers deems sufficiently serious to call into question Mr Jamshidi's fitness and propriety to hold a Hackney Carriage driver's licence.
- 1.3 The details of the incident and Mr Jamshidi's interview notes are attached to the accompanying background papers.
- 1.4 **The Sub-committee can:**
 - 1.4.1 **Resolve that Mr Jamshidi remains a fit and proper person to hold a Hackney Carriage driver's licence and that no further action is required; or**
 - 1.4.2 **Resolve that Mr Jamshidi is to undertake, at his own expense and within 3 months, an enhanced driving assessment through the authority's approved provider and that Members consider whether a suspension is proportionate until such a time as he successfully pass this assessment; or**
 - 1.4.3 **Resolve that the incident is of such a serious nature that Mr Jamshidi is no longer deemed a fit and proper person to hold a Hackney Carriage driver's licence and as a consequence his Hackney Carriage driver's licence is revoked.**
 - 1.4.4 **Subject to either 1.4.2 or 1.4.3 above, Members can further resolve that, if it appears that the interests of public safety require, the suspension or revocation of the licence to have immediate effect under section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.**

1.5 Implications

- 1.5.2 Legal There is a right of appeal against a decision to revoke 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 licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the convictions, the applicant is a fit and proper person to hold a licence.

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 must be decided on its own merits and Members must 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 authority 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.

4. Licensing Comments

- 4.1 Details of the incident and the subsequent interview with Mr Jamshidi is enclosed on the background papers for Member to refer to.
- 4.2 Mr Jamshidi 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.
- 4.3 In considering the application on its own merits Members should have regard to the adopted Probity Guide.

Background Papers**Service Records****Report Author**

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