

- 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).
- 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

Duty to notify the council

- 3.1 There is a policy requirement for licence holders to notify the council under the circumstances listed below:

Convictions / cautions / fixed penalty notices / criminal investigations

Licence holders must notify the council in writing within 7 days if he or she is convicted or cautioned for an offence, receives a fixed penalty notice or is the subject of a criminal investigation. (page 7)

Relevance of convictions

- 3.2 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.
- 3.3 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 **Motoring Convictions (Existing Licence Holders)**

Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence.

An existing licence holder who has 7 penalty points or more on his or her driving licence due to multiple offences, or 6 penalty points or more for one isolated offence, will be required to appear before the Licensing Committee to explain their convictions. The Committee then have the option to:

- a. Take no further action
- b. Give a written warning
- c. Require the driver to pass a DSA private hire/hackney drivers test, at the driver's own expense, within 2 months of their decision
- d. Suspend the Licence upon conditions or for a period of time
- e. Revoke the licence.
- f. Refuse to renew the licence (if such an application is being considered)

4. Licensing Comments

- 4.1 The council is under a statutory duty to only license persons deemed to be fit and proper.
- 4.2 Due to the number of penalty points Mr Gamble has on his DVLA driving licence coupled with the fact that he failed to disclose them has called into question whether he remains a fit and proper person to hold a Hackney Carriage driver's licence.
- 4.3 This authority sets a high standard for licence holders and expect them to maintain the highest level of safe driving standards as outlined in the council's licensing policy.
- 4.4 Mr Gamble has been licensed since 2009 and is therefore not new to the trade. Through his experience as a Hackney Carriage driver, he should have been aware of the requirement to report penalty points to the council and to be honest when completing his renewal application.
- 4.5 Members are to note that the council's Licensing Committee previously revoked Mr Gamble's Hackney Carriage driving licence in 2010 for totting up. This decision was substituted with a two-month suspension on appeal.
- 4.6 Mr Gamble 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.

Background Papers

Service Records

Licensing Committee – June 2010

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