

Cheltenham Borough Council

Licensing Committee – 7 June 2013

Review of a Private Hire Driver's Licence

Mr Michael Rodgers - PHD055

Report of the Senior Licensing Officer

1 Executive Summary and Recommendation

- 1.1 Mr Michael Rodgers holds Private Hire driver's licence PHD055 which is due for renewal on 14 December 2013.
- 1.2 Mr Rodgers drives a private hire vehicle licence (PHV071), which is a Renault Laguna, registration number LL58 BCO.
- 1.3 Mr Rodgers was subject to a vehicle inspection on Thursday 18th April 2013 by Police Constable J Tranter currently stationed at the Roads Policing Unit at Bamfurlong, Gloucestershire Constabulary.
- 1.4 Police Constable J Tranter, contacted the Licensing Office immediately to advise that the vehicle (PHV071) had been inspected at 23.45 hours on the A40 London Road, Cheltenham. PC Tranter advised that the vehicle had been stopped due to an inoperable headlamp and bald rear nearside tyre.
- 1.5 PC Tranter advised that the rear nearside tyre was worn below the legal limit, the measurement in the groove of the tyre was 75mm on the inside edge of the tyre, the full circumference of the tyre measured 100mm. The tyre was a UNIROYAL RAINEXPERT 205/60 R16H. A diagram of the tyre measurements submitted by PC Tranter is attached at **Appendix A**.
- 1.6 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the incident because of:
- 1.6.1 The nature of the offence; and,
- 1.6.2 The need to ensure that, Mr Rodgers is judged to be a fit and proper person to hold a Private Hire driver's licence.
- 1.7 The Committee is recommended to resolve that:**
- 1.7.1 Mr Rodgers' Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Rodgers is a fit and proper person to hold such a licence, or**
- 1.7.2 Mr Rodgers' Private Hire driver's licence be revoked as the Committee considers Mr Rodgers is not a fit and proper person to hold a Private Hire driver's licence because he failed to maintain his vehicle in a roadworthy condition.**

1.8 Implications

- 1.8.1 Financial **Contact officer: Sarah Didcote**
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- 1.8.2 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 Hackney Carriage licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

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 will be decided on its own merits. The Council will 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 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.
- 3.4 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 and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

Maintenance of Vehicle

- 3.5 The vehicle, all of its fittings and any attached equipment shall at all times when the vehicle is in use or available for hire, be kept in a clean, safe, tidy and efficient state, and must also comply with all relevant statutory provisions including in particular those contained in the Road Vehicles (Construction and Use) Regulations 1986.

Tyres

- 3.6 All tyres fitted to the vehicle or carried as a spare must comply with the Motor Vehicles (Construction and Use) Regulations 1986 and Motor Vehicle (Tests) Regulations 1981.
- 3.7 The carrying and use of Space saver tyres and tyre sealant kits will only be approved with the support of a method statement. The method statement will detail the drivers' and vehicle owners' responsibility with regard to the maximum permitted speed and restrictions of use and highlight that they are ONLY a temporary measure to complete the journey in which the puncture occurred. An approved repair to BS AU159 or a replacement tyre must be undertaken before any further fares are carried.

3.8 Run flat tyres fitted to any vehicle by the manufacturer will not be replaced by any other type or make, either individually or all of them. The use of these tyres must be supported by a method statement (such as the manufacturer's handbook for the vehicle) specifying the capability and restrictions of use following a puncture. In all cases the Tyre Pressure Monitoring System (TPMS) must be working correctly and if required, be reset when a tyre(s) are renewed ore replaced. Worn or damaged run flat tyres must be replaced by the same make and size.

4. Licensing Comments

4.1 The Licensing Section was informed by PC Tranter on 18 April 2013 at 4.49am. The email was opened and read by Mrs Amelia Byres at approximately 08.30am. Mrs Byres immediately suspended the vehicle.

4.2 The vehicle licence is currently issued to Mr Graham Foley who owns a number of licensed private hire and hackney carriage vehicles that he rents to licensed drivers within Cheltenham Borough. Mr Foley explained that the vehicle was rented to Mr Michael Rodgers and that he would contact Mr Rodgers to advise that the vehicle had been suspended until the vehicle was produced for inspection by the Licensing Section.

4.3 Mr Foley also explained that licensed drivers who rent a licensed private hire or hackney carriage vehicle from him are contractually obliged to ensure that the tyres and brakes are maintained in a roadworthy condition at all times. A copy of the contract between Mr Foley and Mr Rodgers is attached at **Appendix C**.

4.4 Mr Rodgers produced the vehicle for inspection at the Licensing Office at 11am, less than 3 hours after the suspension notice had been issued by the Licensing Section.

4.5 The vehicle was inspected by Mrs Amelia Byres who confirmed that the vehicle's headlight was in full working order and that the tyre had been replaced. Mr Rodgers explained that he had gone straight home following the vehicle being stopped by the police and informed his Private Hire Operator, Starline that he could not accept any further jobs until further notice.

4.6 Since the incident Mr Rodgers was interviewed by Mrs Amelia Byres and explained that he began work that evening at 19.00 hours on Thursday 18th April. He explained that he was travelling through Charlton Kings at approximately 23.45 when the Police Officer pulled his vehicle over. The Officer explained that he had initially pulled over the vehicle due to an inoperable headlight.

4.7 Mr Rogers explained that in Charlton Kings the street lighting is extremely bright and that he had not noticed that the headlight was inoperable however he did add that he was in no doubt that the headlight was most definitely working when he began working at 19.00 hours. He added that had he known that the headlamp was not working he would not have continued to work and would have replaced the bulb immediately.

4.8 The Police Officer inspected the vehicle and found that the rear nearside tyre was below the legal limit. Mr Rodgers explained that he checks his tyres on a regular basis before he starts work however he fully accepts responsibility for the tyre and explained that he must have missed how low the tyre was whilst inspecting the vehicle. He went on to explain that he was carrying a passenger at the time he was stopped by the police. The Police Officer advised Mr Rodgers that he could take the passenger to their destination and stop work immediately afterwards, which Mr Rodgers confirmed he did.

4.9 The Licensing Office has confirmed that Mr Rodgers logged off Starline's system at 00.17 hours and did not carry out any more work until the vehicle had been repaired and inspected by Mrs Amelia Byres at 11am on Friday 19th April.

- 4.10 Mr Rodgers explained that he has been a licensed driver with Cheltenham Borough Council for 25 years on and off, in that time he has not received any complaints and explained that he enjoyed his work. He went on to say that he is extremely sorry for not recognising that the tyre needed replacing and now checks them every day before starting work. He immediately went out and bought a tyre depth gauge and uses it daily to prevent this from happening again.
- 4.11 A reference from Mr Foley is attached at **Appendix B**.
- 4.12 Mr Rodgers 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.
- 4.13 The Committee must be satisfied that Mr Rodgers is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.

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

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