

# Cheltenham Borough Council

## Licensing Committee – 26 July 2013

### Review of a Private Hire Driver's Licence

#### Mr Tohur Uddin - PHD660

#### Report of the Senior Licensing Officer

##### 1. Executive Summary and Recommendation

- 1.1 Mr Tohur Uddin holds Private Hire driver's licence PHD660 which is due for renewal on 7 December 2013.
- 1.2 Mr Uddin drives a private hire vehicle licence (PHV362), which is a Vauxhall Vectra, registration number VE06 DJX.
- 1.3 Mr Uddin was subject to a vehicle inspection on Sunday 7<sup>th</sup> July 2013 by Police Sergeant Tony Wallace, currently stationed at the Roads Policing Unit at Bamfurlong, Gloucestershire Constabulary.
- 1.4 Police Sergeant Tony Wallace contacted the Licensing Office immediately to advise that the vehicle (PHV362) had been inspected at 01.28 hours on Millbrook Road, Cheltenham. PC Wallace advised that two tyres were found to be worn below the legal limit. Photographs of the tyres are attached at **Appendix A**.
- 1.5 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the incident because of:
- 1.5.1 The nature of the offence; and,
- 1.5.2 The need to ensure that Mr Uddin is judged to be a fit and proper person to hold a Private Hire driver's licence.
- 1.6 **The Committee is recommended to resolve that:**
- 1.6.1 **Mr Uddin's Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Uddin is a fit and proper person to hold such a licence, or**
- 1.6.2 **Mr Uddin's Private Hire driver's licence be revoked as the Committee considers Mr Uddin 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.**

##### 1.7 Implications

- 1.7.1 Financial

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- 1.7.2 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 or 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 PS Wallace on 7<sup>th</sup> July 2013 at 21.45. The email was opened and read by Mrs Amelia Byres at approximately 08.15am on Monday 8<sup>th</sup> July 2013. Mrs Byres immediately suspended the vehicle.
- 4.2 The vehicle licence is currently licensed to Mr Graham Foley who owns a number of licensed private hire and hackney carriage vehicles that he supplies to licensed drivers within Cheltenham Borough. Mr Foley explained that the vehicle was leased to Mr Uddin and that he would contact Mr Uddin 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 lease licensed private hire or hackney carriage vehicles 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 Uddin is attached at **Appendix B**.
- 4.4 Mr Uddin produced the vehicle for inspection at the Licensing Office at 16.45pm on Monday 8<sup>th</sup> July 2013, 9 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 tyres had been replaced. Mr Uddin 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 Uddin was interviewed by Mrs Amelia Byres and explained that he was travelling along Millbrook Street at approximately 01.28am when the Police Officer pulled his vehicle over.
- 4.7 The Police Officer inspected the vehicle and found that two tyres were below the legal limit. Mr Uddin explained that he checked his tyres on Wednesday 3<sup>rd</sup> July and changed the front tyre however did not see the other tyres were bald on the inside edges of the tyres. Mr Uddin explained that he fully accepts responsibility for the tyres and explained that he must have missed how low the tyres were. 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 Uddin that he could take the passenger to their destination and stop work immediately afterwards, which Mr Uddin confirmed he did.
- 4.8 The Licensing Office has confirmed that Mr Uddin logged off Starline's system at 2.00 hours and did not carry out any more work until the vehicle had been repaired and inspected by Mrs Amelia Byres at 16.45pm on Monday 8<sup>th</sup> July 2013.
- 4.9 Mr Uddin 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.
- 4.10 The Committee must be satisfied that Mr Uddin 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.

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**Background Papers**

Service Records

**Report Author**

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