

Cheltenham Borough Council

Licensing Committee – 6 September 2013

Review of a Hackney Carriage Driver's Licence

Mr Samir Jamshidi - HCD076

Report of the Licensing Officer

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 2015.
- 1.2 Mr Jamshidi has recently been convicted of a driving offence. The details of this conviction are contained in the enclosed background papers.
- 1.3 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the conviction because of:
- 1.3.1 The nature of the offence; and,
- 1.3.2 The need to ensure that Mr Jamshidi is judged to be a fit and proper person to hold a Hackney Carriage driver's licence.
- 1.4 **The Committee is recommended to resolve that Mr Jamshidi's Hackney Carriage driver's licence be:**
- 1.4.1 **continued with no further action because Mr Jamshidi is judged to be a fit and proper person to hold a Hackney Carriage driver's licence, or**
- 1.4.3 **revoked as the Committee considers Mr Jamshidi is not a fit and proper person to hold a Hackney Carriage driver's licence.**

1.5 Implications

- 1.5.1 Financial **Contact officer: Sarah Didcote**
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- 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 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.
- 3.3 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.
- 3.4 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.
- 3.5 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.

Major traffic offences

- 3.6 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.

4. Licensing Comments

- 4.1 Members are to note that the driving offence of which Mr Jamshidi has been convicted (Exceeding speed limit on a motorway) is defined as a 'hybrid traffic offence' in the Council's Policy. Hybrid traffic offences are treated as major traffic offences if, as in this case, more than 4 penalty points were issued by the Court. The Policy guidelines on how to treat such offences are shown above at paragraph 3.6.
- 4.2 If Members are minded to allow Mr Jamshidi's licence to continue, they have the option of adding a requirement that Mr Jamshidi must successfully pass the approved road safety driving assessment test within a period of 3 months from the date of the Committee's decision.
- 4.3 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. In considering the application on its own merits Members should have regard to the adopted Probity Guide.
- 4.4 The Committee must be satisfied that Mr Jamshidi 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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