

Cheltenham Borough Council

Licensing Committee – 1 November 2013

Review of a Private Hire Driver's Licence

Mr Stephen Owens - PHD445

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Stephen Owens holds Private Hire driver's licence PHD445 which is due for renewal on 1 December 2015.
- 1.2 Mr Owens holds a private hire vehicle licence (PHV049), which is a Citroen Picasso, registration number VO58 BCU.
- 1.3 Mr Owens was subject to a vehicle inspection on 15th October 2013 by the enforcement officers from the Integrated Transport Unit, Gloucestershire County Council. Regular inspections are carried out by the Integrated Transport Unit who oversee all school transport providers across Gloucestershire. On inspection the Integrated Transport Unit found that the near side front tyre was worn below legal limit on the outer edge exposing the chord.
- 1.4 Mr Bob Gibbons, Transport Engineering Manager contacted the Licensing Office immediately to advise that the vehicle (PHV049) was inspected outside the school to which Mr Owens was delivering children. Mr Gibbons advised that the vehicle had been removed from all school contracts until the tyre is replaced. Photographs were taken at the time of the inspection and 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 convictions because of:
 - 1.5.1 The nature of the offence; and,
 - 1.5.2 The need to ensure that, Mr Owens is judged to be a fit and proper person to hold a Hackney Carriage driver's licence.
- 1.6 **The Committee is recommended to resolve that:**
 - 1.6.1 **Mr Owens' Private Hire driver's licence be continued with no further action because the Committee is satisfied that Mr Owens is a fit and proper person to hold such a licence, or**
 - 1.4.3 **Mr Owens' Private Hire driver's licence be revoked as the Committee considers Mr Owens 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.**

1.5 Implications

- 1.5.1 Financial

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- 1.5.2 Legal There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.

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 the Integrated Transport Unit on 15th October 2013 at 14.26. Mrs Amelia Byres immediately suspended the vehicle and telephoned Mr Owens to advise that the vehicle was suspended. Mr Owens produced the vehicle for inspection at the Licensing Office within two hours of the suspension being issued.
- 4.2 The vehicle was inspected by Mrs Amelia Byres who confirmed that the vehicle had a new tyre fitted. Mr Owens explained at the time of the incident that he was completely unaware of the state of the tyre and that he had replaced the two front tyres with part worn tyres only three weeks ago. He went on to explain that he would never purchase part worn tyres in the future.
- 4.3 Since the incident Mr Owens expressed his remorse and explained that he now checks his tyres on a weekly basis. He also added that he has an arrangement in place with his Private Hire Operator who has agreed to pay for any maintenance on the vehicle as and when required.
- 4.4 Mr Owens 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.
- 4.5 The Committee must be satisfied that Mr Owens 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.
- 4.6 The maintenance of all licensed vehicles should be the priority for the vehicle proprietor as the transportation of the public is a position of trust.

Background Papers

Service Records

Report Author

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