

BODY: General Licensing Sub-Committee

DATE: 3 July 2006

SUBJECT: Application for a hackney carriage/private hire driver's licence

REPORT OF: Kareen Plympton, Licensing Manager

Ward(s): All

Purpose: To consider the application for a hackney carriage/private hire driver's licence.

Contact: Miss Kareen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937.

1.0 Introduction

- 1.1 Hackney carriage and private hire vehicle drivers must hold a valid 3 year licence issued by the Borough Council before they can drive a hackney carriage or private hire vehicle licensed by the Borough Council.
- 1.2 The purpose of the hackney carriage and private hire licensing regime is **to protect public safety** and to ensure the provision of an accessible service.
- 1.3 Applications for hackney carriage and private hire driver licences are considered within the framework of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976. The relevant criterion in this case is that the Council shall not grant a licence to drive a hackney carriage/private hire vehicle unless it is satisfied that the applicant is a **"fit and proper person"** to hold such a licence.
- 1.4 There is no judicially approved test of fitness and propriety. Nonetheless, in his book Taxis – Licensing Law and Practice, James T.H. Button puts forward the following wording:
"Would you (as a member of the licensing sub-committee or other person charged with the ability to grant a hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person in your care, to get into a vehicle with this person alone?"
If the answer is an unqualified yes then the test is probably met. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether the person is a fit and proper person to hold a hackney carriage driver's licence

- 1.5 Each application is considered on its own merits. In forming a judgement about the fitness and propriety of an applicant, consideration must be given to a range of issues, including the details of any relevant criminal convictions, the results of a medical examination and the 2 character references provided, along with a DVLA check.
- 1.6 Regard must be given to the material contained in Annex D of the joint circular issued in 1992 by the then Department of Transport (2/92) and the Home Office (13/92) entitled "Disclosure of Criminal Records: Applicants for Hackney Carriage and Private Hire Vehicles Drivers' Licences". The Circular sets out the now defunct procedure for checking criminal convictions with the Police. Annex D contains example guidelines relating to the relevance of convictions and their validity. In relation to dishonesty, it advises that a **serious view** should be taken of such convictions. Taxi and private hire vehicle drivers are placed on a position trust and could use their position to extract information and/or monies from vulnerable members of the community.
- 1.7 The Rehabilitation of Offenders Act 1974 provides the means for considering past criminal convictions.
- 1.8 In 2002, an Order was **made specifically excepting taxi and private hire** drivers from the relevant provisions of the 1974 Act. This Order enables Licensing Authorities to consider spent convictions where relevant in relation to a hackney carriage and private hire driver's licence application.

Whilst each application will be considered on its merits, regard should had in relation to Eastbourne Borough Councils Criminal Records Bureau Guidance adopted on 13th March 2006, which sets out the parameters within which applications will be considered where criminal convictions, cautions and/or warnings are a feature. A copy of this is included in Appendix 1.

2.0 The Application in Question

- 2.1 Details of the application are set out in the separate addendum report in the confidential section of the agenda.

3.0 Resource Implications

- 3.1 The cost of administering the Taxi & Private Hire Licensing function is fully recovered via the licence fee income.

4.0 Human Rights Act 1998 Implications

- 4.1 Article 1 of the First Protocol is concerned with the protection of property and provides that every person is entitled to peaceful enjoyment of his possessions. The term 'possessions' is given a

broad definition and includes a licence. However, Article 1 of the First Protocol does not apply to property that a person wants or hopes to acquire. Therefore an applicant for a licence is not able to rely on this Article.

- 4.2 Article 6 relates to the right to a fair hearing. The applicant has been advised that the Sub-Committee will consider his application and that he is entitled to be present and represented at the meeting.

5.0 Summary of Options

- 5.1 The Sub-Committee can:
- (a) Approve
 - (b) Refuse
 - (c) Grant with conditions or
 - (d) Defer consideration of the application in question.

6.0 Conclusion

- 6.1 Serious consideration should be taken by the Sub-Committee with regard to this application. Taxi and Private Hire drivers are in placed a position of trust and responsibility.

Kareen Plympton
Licensing Manager

Background Papers:

The Background Papers used in compiling this report were as follows:

Joint Department of Transport Circular 2/92 and Home Office Circular 13/92 – Disclosure of Criminal Records: Applicants for Hackney Carriage and Private Hire Drivers' Licences.

Taxis – Licensing Law and Practice 2nd edition– James T.H. Button

Criminal Records Bureau Advance Disclosure reference 001095189649

To inspect or obtain copies of background papers please refer to the contact officer listed above.