

Bolton Council

Report to: Licensing & Environmental Regulation Committee

Date: 10th May 2016

Report of: Director of Place

Report No: LER/24/16

Contact Officer: Principal Licensing Officer (PAC)

Tele No: 01204 336584

Report Title: **APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE**

Confidential:

This report is exempt from publication by virtue of Paragraphs (3) of Schedule 12A to the Local Government Act 1972.

Purpose:

1. An application has been received for a licence to drive a private hire vehicle. The applicant has declared convictions or other matters that, because of their nature, must be referred to the Licensing and Environmental Regulation Committee.
2. The report sets out the reason for referral to the Licensing and Environmental Regulation Committee including convictions etc. The individual has been invited to address the Committee either personally or by a representative.

Recommendations:

The Committee is asked to consider the report and to either determine the matter in accordance with the recommendations shown or to substitute such other decision as is considered appropriate.

Summary:

A summary and guidance is included before the report.

Background Doc(s):

Human Rights Act 1998
Statement of Fitness & Suitability

SUMMARY

- A This report contains details of an application from an individual who wishes to be licensed by the Council to drive a private hire vehicle.
- B The applicant has declared convictions or other matters, which must be considered by the Licensing and Environmental Regulation Committee.
- C A copy of this report has been sent to the applicant and they have been invited to attend to address the Committee either personally or by a representative.
- D The committee are asked to consider if the applicant is a 'fit and proper person' to hold a licence to drive a private hire vehicle.

Extract from the Local Government (Miscellaneous Provisions) Act 1976

Section 51 – (1) Subject to the provisions of this part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence – unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence

Section 59 – (1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage – unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence

Extract from the Town Police Clauses Act 1847

Section 46. No person shall act as driver of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the district council, which licence shall be registered by the district council, and such fee as the district council may determine shall be paid for the same; and every such licence shall remain in force for one year or until the next licensing meeting.

Extract from 'Taxis – licensing law and practice' James T. H. Button

'There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:

'Would you (as a member of the licensing 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 for whom you care, to get into a vehicle with this person alone?'

If the answer to this question (or a similar test) is an unqualified 'Yes', then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage driver's licence.

Mr Justice Silber made an obiter observation in the case of Leeds City Council v Hussain. In the context of a suspension of a drivers licence "for any other reasonable cause" he said

'... the purpose of the power of suspension is to protect users of licensed vehicle and those who are driven by them and members of the public. Its purpose, therefore, is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.'
And this passage would support the above test for fitness and propriety.'

RECOMMENDATIONS

To consider the attached report and resolve to:

- (i) Grant the licence, subject to the standard conditions or;
- (ii) Refuse to grant the licence on the grounds that the applicant is not a fit and proper person because of the convictions or other matters shown in the report

Sub Report: LER/24/16

Applicant: Inayatbhai Adullah Patel
34 Jessie Street
Bolton
BL3 5PE

Date of Birth: 04/03/1973

Type: Application for a licence to drive a Private Hire Vehicle

Details of Convictions:

DATE OF CONVICTIONS	DATE OF OFFENCE	NATURE OF OFFENCE	PENALTY
12/11/2007 (Liverpool Crown Court)	06/04/1998	Conspire/cheating the public revenue	Confiscation under the proceeds of Crime Act 2002

Background:

Mr Patel has applied for a licence to drive a private hire vehicle in Bolton.

He has stated that he intends to work for 1st Call if his application is successful.

Reason for referral:

Due to the offence listed in the above table, the Committee are asked to consider if Mr Patel is a 'fit and proper person' to hold a private hire driver licence.

Analysis and Policy:

Guidance relating to the relevance of convictions and non-convictions is given in Bolton Council's 'Statement of Fitness & Suitability'.

A copy is available to view here www.bolton.gov.uk/website/pages/Privatehiredriverlicence.aspx

This document sets out minimum periods in each offence category and in making its judgement the Committee will seek to ensure:

- a) That a person is 'a fit and proper person'
- b) The public are not exposed to persons with a history of dishonesty, indecency or violence or any other offence or inappropriate behaviour which may question the persons 'fit and proper' status
- c) The safety of all members of the public and in particular children, young persons and vulnerable adults

The factors which are taken into consideration for each offence or non-conviction (including motoring offences) include:

- a) The nature of the offence or 'non conviction'
- b) Any penalty imposed
- c) When it was committed (took place)
- d) The date of conviction or 'non conviction'
- e) The length of time which has elapsed
- f) The individual's age when the offence or 'non conviction' was committed
- g) Whether or not it is part of a pattern of behaviour (criminal or otherwise)
- h) The intent and harm which was or could have been caused

- i) Any other factors which might be relevant

In the Statement of Fitness & Suitability, Schedule A Dishonesty may be considered relevant in this case and this section is reproduced below.

The Committee may wish to take into account the penalty imposed by the courts, which helps to indicate the seriousness of the offence.

Recommendation:

The Committee are asked to consider the offence and to determine whether or not Mr Patel can be considered to be a 'fit and proper person' to hold a private hire driver licence.

Convictions Policy – Relevant Extracts

Offence

Dishonesty (page 13 of the Statement of Fitness & Suitability)

A serious view is taken of any conviction involving dishonesty. Where a person has a conviction for an offence related to dishonesty and the date of conviction is less than 5 years, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will normally have the application refused, or the licence revoked.

Where the person has more than one conviction related to dishonesty the period above will be extended to 10 years. After 10 years, consideration may be given to the circumstances of the offences and any evidence demonstrating that the person is now 'a fit and proper person' to hold a licence. In the case of serious or multiple offences, a longer period of rehabilitation may be required.

Justification:

A driver of a private hire or hackney carriage vehicle is expected to be a person of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Passengers may include children, young persons and vulnerable people. Members of the public entrust themselves to the care of a driver both for their own safety and for fair dealing.

In certain situations a driver will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into a driver.