

Application for the revocation of a Hackney Carriage & Private Hire Drivers Licence

Private Hire and Hackney Carriage Licensing Sub-Committee 26th July 2016

Author: Licensing Manager

Wards Affected: All

Purpose

- To consider the revocation with immediate effect in the interests of public safety of a Hackney Carriage & Private Hire Drivers licence pursuant to Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976

Recommendation

The Sub-Committee is asked to: -

- Consider the revocation of both Hackney Carriage and Private Hire Driver's licences, with immediate effect in the interests of public safety, following a complaint received regarding the use of inappropriate words and or language of a sexual nature and taking into account evidence of other incidents of impropriety of a sexual nature.

1. Reasons

- 1.1 This Sub-Committee has a duty to consider issues relating to Private Hire and Hackney Carriage Licensing on behalf of the Licensing Committee. In licensing Hackney Carriage and Private Hire drivers the Council requires that applicants should be of good character and 'safe and suitable' in order that the fare paying public can travel safely to their destination.

2. Detail

- 2.1 Mr Sunil Kumar Jainwal of 8 Morse Street, Swindon SN1 5QR is a licensed Hackney Carriage and Private Hire Driver with Swindon Borough Council. Mr Jainwal was first licensed on the 04/09/2012 as a Hackney Carriage driver. He subsequently obtained a Private Hire Driver's licence on the 03/10/2012.
- 2.2 As part of the application process, an enhanced certificate from the Disclosure & Barring Service is required. The initial Criminal Record Bureau, (CRB), check carried out in 2012 did not reveal any intelligence and the first reported incident which subsequently appeared on the CRB in 2015 occurred in 2011 which was before Mr Jainwal was first licensed.
- 2.3 In 2013 it was reported that there was an allegation of rape and Mr Jainwal's licence was suspended pending enquiries from the Police. The Police case was put before the Crown Prosecution Service. Due to 'significant'

Further information on the subject of this report can be obtained from Kathryn Ashton Licensing Manager on 01793 466113 or e-mail kashton@swindon.gov.uk.

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evidential weakness it was considered that there was not a realistic prospect of conviction and the case was closed undetected and Mr Jainwal's licence was re-instated by the previous Licensing Team Leader.

In 2015 the current Licensing Manager carried out an audit of the taxi licensing service and all licensed drivers were required to have an updated DBS check. As a result of this Mr Jainwal's DBS certificate was renewed on 9th June 2015. It was noted that there was intelligence from Wiltshire police which they felt was relevant to an employer's risk and suitability assessment when considering Sunil Jainwal's position of a taxi driver because it raised issues about the licensee's concerning behaviour towards vulnerable women whilst working in the role. A copy of the DBS intelligence from Wiltshire Police is at Appendix (1).

A concern was raised from the safeguarding team regarding Mr Jainwal's suitability and as a result his operator was informed that he should not be involved in any Swindon Borough Council contract work involving children or vulnerable adults. However, as the matter in 2013 had already been considered it was decided to allow Mr Jainwal to continue as a licensed driver with the condition that he have CCTV installed in his vehicle. Mr Jainwal agreed and a system was installed in his vehicle.

On the 11th July 2016 a complaint was received from a member of the public who had undertaken a journey as a fare paying passenger through V Cars, the driver at the time was Mr Sunil Kumar Jainwal a copy of the complaint is at Appendix (2) and is summarised below.

On the 10 July 2016 Mr Sunil Kumar Jainwal was driving for V Cars when he received a booking for a journey from Ermin Street, Swindon to Stafford Street in Swindon. He took the job at 5.41am on 10 July 2016. He picked up a male and female passenger, the male passenger was dropped off in Roseberry street Swindon leaving the female passenger alone with the driver, As soon as the male passenger had left the vehicle, leaving the female passenger alone, it is alleged that Mr Jainwal 'flirted' with the passenger and offered to buy her alcohol and during conversation with her he used sexually explicit language causing unnecessary alarm and distress.

On the afternoon of the 11th July 2016 V Cars were asked to log off Mr Jainwal and he was requested to attend with his vehicle at Wat Tyler House West, Swindon where he was seen by Mr Shears and Miss Ashton. He was asked to produce the data card from his CCTV system which he supplied, however, he informed the officers that the system was not operating and had in fact been broken for several months. He had failed to

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notify the Licensing Authority before this interview that this had been the case. Mr Shears checked the data card and found that the last entry was dated 25/03/2016 it was found that no data from the card was able to be recovered. Mr Jainwal was asked if he could remember the journey and after some initial difficulty he was able to recall the journey. He was advised to put details of the journey in writing including any conversations that may have taken place and to let officers have his written account as soon as possible and he agreed. However, at the time of writing this report no statement from Mr Jainwal had been produced.

Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 states that:

61(1) 'Notwithstanding anything in the Act of 1847 or in this part of this Act, a District Council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-

(a) that he has since the grant of the licence-

(i) been convicted of an offence involving dishonesty, indecency or violence: or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this Act; or

(b) Any other reasonable cause.

2 (2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver."

- 2.4 The Sub-Committee are required to consider this application and supporting information in order to determine whether it is satisfied that Mr Jainwal is a fit and proper person to hold a Private Hire or Hackney Carriage Driver's Licence.
- 2.5 If the Sub-Committee is not satisfied that Mr Jainwal is a fit and proper person to hold a Private Hire or Hackney Carriage Driver's licence it will

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need to determine whether suspension or revocation is appropriate and whether in the interests of public safety such suspension or revocation should be with immediate effect

- 2.6 If the applicant is aggrieved by the decision of the Sub-Committee he has the right to appeal to the magistrate's court.

Alternative Options

- None

Risk Management

Financial and Procurement Implications

There are no direct financial implications arising from this report. There are no procurement issues arising from this report.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

A Healthy and Caring Place; An Economically Prosperous Place; An Environmentally Friendly Place; A Safe Place.

Consultees

The Director of Finance (s.151 Officer) and the Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

Background Papers and Appendices

- Appendix 1 – Copy of a DBS Certificate for Mr Sunil Kumar Jainwall
- Appendix 2- Copy of a complaint letter