

Public Document Pack



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LICENSING COMMITTEE (HACKNEY CARRIAGE)

DATE: THURSDAY 3 DECEMBER 2009
TIME: 10.00 AM
PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Members –

Councillor Mrs Dolan, Chair.
Councillor Drean, Vice Chair.
Councillor Bowe, Delbridge, Rennie, Reynolds and Thompson.

Members are invited to attend the above meeting to consider the items of business overleaf

Members and Officers are requested to sign the attendance list at the meeting.

BARRY KEEL
CHIEF EXECUTIVE

LICENSING COMMITTEE (HACKNEY CARRIAGE)

PART I (PUBLIC COMMITTEE)

AGENDA

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. MINUTES

(Pages 1 - 4)

To confirm the minutes of the meeting held on 5 November 2009.

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. APPEAL CASES

The Committee will be provided with the results of the judgement on appeal cases that went to Court.

**6. REQUEST FOR DELEGATED AUTHORITY TO GRANT
SHORT TERM DRIVER LICENCES TO COMPLETE
TRAINING QUALIFICATION**

(Pages 5 - 8)

The Director for Community Services will submit a report on the request for delegated authority to grant short term driver licences to complete training qualification.

**7. LICENSED DRIVER REVIEW OF LICENCE STATUS - G
JONES**

(Pages 9 - 14)

The Director for Community Services will submit a report on a licensed driver review of licence status.

8. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS FOLLOWING MOTORING DISQUALIFICATION - S E MUNNERY (Pages 15 - 20)

The Director for Community Services will submit a report on a licensed private hire driver review of licence status following motoring disqualification.

9. LICENSED DRIVER REVIEW OF LICENCE STATUS - J L WARNER (Pages 21 - 26)

The Director for Community Services will submit a report on a licensed driver review of licence status.

10. EXEMPT INFORMATION

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 3 and 7 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE COMMITTEE)

MEMBERS OF THE PUBLIC TO NOTE:

that under the law, the Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

11. CONFIDENTIAL MINUTES (Pages 27 - 28)

To confirm the confidential minutes of the meeting held on 5 November 2009.

12. APPLICATION FOR THE GRANT OF A RESTRICTED PRIVATE HIRE DRIVER'S LICENCE AND A PRIVATE HIRE OPERATOR'S LICENCE - AU (E3 AND E7) (Pages 29 - 34)

The Director for Community Services will submit report on the application for the grant of a restricted private hire driver's licence and a private hire operator's licence.

13. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - PAF (E3 AND E7) (Pages 35 - 40)

The Director for Community Services will submit a report on the application for the grant of a private hire driver's licence.

14. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - KJ (E3 AND E7) (Pages 41 - 46)

The Director for Community Services will submit a report on the application for the grant of a private hire driver's licence.

Licensing Committee (Hackney Carriage)

Thursday 5 November 2009

PRESENT:

Councillor Mrs Dolan, in the Chair.
Councillor Thompson, Vice Chair.
Councillors Bowie, Delbridge, Mrs Nicholson, Rennie and Reynolds.

Apologies for absence: Councillor Drean

The meeting started at 10.00 am and finished at 4.00 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

75. DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the code of conduct.

76. MINUTES

Resolved that the minutes of the meetings held on 10 September 2009 and 1 October 2009 are confirmed as a correct record.

77. CHAIR'S URGENT BUSINESS

There were no items of chair's urgent business.

78. APPEAL CASES

The committee was advised that there had been no new appeal cases since the last committee meeting.

79. DELEGATED DECISION FOR THE GRANT OF A PRIVATE HIRE OPERATOR'S LICENCE

Resolved that the delegated decision for the grant of a private hire operator's licence be noted.

80. LICENSED DRIVER REVIEW OF LICENCE STATUS FOLLOWING A MOTORING CONVICTION - D M HANNAFORD

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from DM Hannaford;
- (iii) heard details of DM Hannaford's driving conviction and having taken into account his explanation of the events that occurred

Resolved that it was proportionate that no further action be taken in this matter.

81. LICENSED DRIVER REVIEW OF DRIVER LICENCE STATUS - G JONES

The Committee was informed by the Licensing officer that Mr G Jones was unable to attend the Licensing hearing as his solicitor had other arrangements.

Resolved that this item be deferred to the next available committee meeting.

82. **EXEMPT INFORMATION**

Resolved that under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 and 7 of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

83. **MINUTES (CONFIDENTIAL) (E3 AND E7)**

Resolved that the minutes of the meeting held on 10 September 2009 are approved as a correct record.

84. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - CLL (E3 and E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from the Licensing officer of CLL's absence;
- (iii) heard details of the Licensing officer's attempts to contact CLL

Resolved that CLL's licence be suspended until such time as a medical certificate is produced.

(Note: there is a confidential part to this minute)

85. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - CVP (E3 AND E7)**

The Committee was informed that the certificate had now been produced.

Resolved that no further action be taken.

86. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - DRW (E3 AND E7)**

The committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from the Licensing officer of DRW's absence;
- (iii) heard details of the Licensing officer's attempts to contact DRW

Resolved that DRW's licence be suspended until such time as a medical certificate is produced.

(Note: there is a confidential part to this minute)

87. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - PK (E3 AND E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from PK;
- (iii) heard details of PK's conviction

Resolved that the application to grant a private hire driver's licence be granted subject to the completion of the driving standards test, the medical examination and the completion of Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within 12 months

from the date of first being licensed to comply with the new driver disqualification set out in the Hackney Carriage and Private Hire Drivers Vehicle Licensing Policy.

88. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - JHH (E3 AND E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from JHH;
- (iii) heard details of JHH's convictions

Resolved that JHH is not a fit and proper person to hold a private hire driver's licence and that the application be refused.

(Note: there is a confidential part to this minute)

89. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - PAF (E3 AND E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from PAF;
- (iii) heard details of PAF's convictions

Resolved that, as new information which required investigation had come to light during the application hearing, to adjourn that hearing until the next available Committee so that a fully informed decision can be made.

90. **APPLICATION FOR THE GRANT OF A RESTRICTED PRIVATE HIRE DRIVER'S LICENCE AND A PRIVATE HIRE OPERATOR'S LICENCE - AU (E3 AND E7)**

The Committee was informed that AU was unable to attend the committee due to personal circumstances.

Resolved that the application for the grant of a restricted private hire driver's licence and private hire operator's licence be deferred to the next meeting.

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CITY OF PLYMOUTH

Subject: Request for Delegated Authority to Grant Short Term Driver Licences to Complete Training Qualification

Committee Licensing Committee (Hackney Carriage)

Date: 3 December 2009

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: David Hughes – Senior Environmental Health Officer (Licensing)

Contact: Tel: 01753 304158
e-mail: david.hughes@plymouth.gov.uk

Ref: PPS/LIC/DH

Part: I

Executive Summary:

The Hackney Carriage and Private Hire Vehicle Licensing Policy was approved by the City Council on the 28 July 2008 and was effective from the 1 November 2008.

The policy introduced a number of significant changes including a requirement that all new drivers are required to pass a Level 2 VRQ qualification (or equivalent) within 12 months of the issue of their probationary licence.

Where a driver cannot complete the qualification within the 12 months Officers are seeking interim permission, having regard to the individual circumstances to renew, a driver licence for the short period of time to enable the driver to satisfactorily complete the practical part of the training course.

Officers are preparing a scheme of delegation which has yet to be presented to Members of the Committee that will include further detailed reference to this matter and until such time as that document has been approved Officers are seeking delegated authority to grant licences in the circumstances outlined within the report.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and Reasons for recommended action:

That Members of the Licensing Committee consider this report and make the following resolution,

- a. To delegate authority to Licensing Officers, in consultation with Chair, to renew Private Hire and Hackney Carriage Driver Licences for a reasonable period of time that will allow the individual to specifically complete a 'transporting passengers by taxi and private hire' training qualification that satisfies the requirements of the Hackney Carriage and Private Hire Vehicle Licensing Policy.

Alternative options considered and reasons for recommended action

None.

Background papers:

Hackney Carriage and Private Hire Taxi Policy

Sign off:

Head of Fin		Head of Leg	AG/68 60/201 109	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating SMT Member											

Background

1. The Hackney Carriage and Private Hire Vehicle Licensing Policy was approved by the City Council on the 28 July 2008 and became effective from the 1 November 2008.
2. The policy introduced a number of significant policy changes, including the requirement for all new drivers to successfully complete a Level 2 VRQ (Vocational Related Qualification) qualification (or equivalent) within 12 months of the issue of their probationary licence.
3. Members should be aware that the Licensing policy states that it remains the responsibility of the driver to notify the Council at the earliest opportunity, if they consider that they will not be able to successfully complete the qualification within the 12 month probationary period.
4. Officers received a request from a driver requesting the renewal of their driver licence to enable them to successfully complete the practical part of the training as the existing probationary licence had expired. Having regard to the specific circumstances relating to this particular case, Officers in consultation with the Chair of Licensing took the decision to renew the driver licence for a period of one month to enable the driver to successfully complete the qualification. The driver was invoiced for a full 12 month licence and on submission of a valid qualification certificate will then have the licence renewed for the remaining 11 months.
5. In considering the options that are set out in this report members should have regard to the following points;
 - Since the introduction of the VRQ training qualification requirement the preferred alternative for many drivers has been the NVQ equivalent qualification that includes a practical element that involves the examiner observing the driver whilst working.
 - NVQ courses facilitated by Plymouth College have been in demand throughout this year as the fees have been heavily subsidised. As a result many existing drivers have taken the opportunity to undertake the course which was not envisaged when the policy was adopted.
 - This demand has created a waiting list.
 - Due to the influences of the economic downturn the funding stream was withdrawn at short notice and drivers were confronted with the full costs that are currently in the region of £500. I understand that other funding streams have now been put in place that has eased the situation in the short term.
 - Given the particular circumstances which have arisen since the introduction of the new policy in this regard there is a potential for the Licensing Authority to be considered as intransigent and inflexible in not considering each case on its own merits
 - Statistics covering 1 November 2009 until 1 December 2009 will be presented at Licensing Committee showing the number of probationary drivers who have renewed their licences having completed a relevant qualification and also provision figures for those who have not renewed.

6. Where a driver has made no progress towards obtaining a qualification certificate during the 12 month probationary period a renewal licence will not be granted and the driver advised to submit a new application that would then be considered by the Committee.
7. Officers are preparing a written Scheme of Delegation which has yet to be presented to and agreed by the Licensing Committee. This report will seek authority to allow officers to undertake many of the functions currently delegated to Committee that are administrative and are not contentious grant. Until such time as the document has been considered and approved by Members, Officers are seeking delegated authority to grant renewal driver licences, in consultation with the Chair, for a limited time consistent to be able to complete a relevant training qualification.
8. Members are requested to consider the following:
 - a. To delegate authority to Licensing Officers, in consultation with Chair, to renew Private Hire and Hackney Carriage Driver Licences for a reasonable period of time that will allow the individual to specifically complete a 'transporting passengers by taxi and private hire' training qualification that satisfies the requirements of the Hackney Carriage and Private Hire Vehicle Licensing Policy.
9. Members are asked to consider the content of this report, with a view to ensuring that the renewal of driver licences are dealt with expeditiously for the benefit of both applicant and the Council having regard to the Licensing Policy.

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Diver Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 3 December 2009
Cabinet Member: Councillor Brookshaw
CMT Member: Director for Community Services
Author: George Curness – Assistant Licensing Officer
Contact: Tel: 01753 307964
e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/gj
Part: I

Executive Summary:

Mr. Glyn Jones is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 15 August 2008. Mr. Jones present licence is due to expire on 3 August 2012.

On 2 September 2009 a letter was received from Mr Jones stating that he had received 3 penalty points on his DVLA driver licence. On inspecting his driver file, it was noted that here was a history of driving licence endorsements which when taken together gave Officers cause for concern, in that there is sufficient evidence to suggest that his standard of driving is below that which is expected of a licensed Private Hire vehicle driver.

Mr Jones has been invited to attend this Licensing Committee in order that this matter may be considered.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and Risk Management etc.

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and Reasons for recommended action:

Members of the Licensing Committee consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr Glyn Jones is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 15 August 2008. Mr. Jones present licence is due to expire on 3 August 2012.
2. On 2 September 2009 a letter was received from Mr Jones stating that he had received 3 penalty points on his DVLA driver licence. A memo of conviction was requested from South Devon Magistrates' Court on 23 September 2009 and a reply was received on 29 September 2009.

Details of this motoring conviction are given below.

On 27 August 2009 at Newton Abbott Magistrates' Court.

He was convicted of Speeding - Exceeding 30 Miles per hour on a restricted road – manned equipment. On 17 November 2008 at Paignton in the County of Devon, drove a motor vehicle namely a Skoda Superb Classic index number DE57YRA on a restricted road, namely A385 Collaton St Mary, at a speed exceeding 30 miles per hour.

Contrary to S.81(1) and 89(1) of the Road Traffic Regulations Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Jones was fined £75 and ordered to pay costs of £15, his DVLA licence was endorsed with 3 penalty points.

In ordinary circumstances, Mr Jones would have been subject to a driving disqualification under the "totting up" procedure. However no disqualification was imposed for the following special reasons –

- Mr Jones would lose his job
- His wife has a medical condition
- He would lose his Taxi drivers badge and lose house as a result
- His family rely entirely on the defendant.

An inspection of Mr Jones' DVLA driver licence revealed the following endorsements received by means of Fixed Penalty notices –

On 07 September 2008 - Exceeded the Statutory Speed Limit on a public Road

On 05 October 2008 - Failed to Comply with a Traffic Sign

On 08 October 2008 - Exceeded the Statutory Speed Limit on a Public Road

Each of the above offences resulted in three penalty points being endorsed on the DVLA driver licence held by Mr Jones.

The above offences appear to indicate that Mr Jones either has a lack of awareness of his vehicle speed, or is demonstrating a complete disregard for the rules and regulations relating to the use of motor vehicles on the public highway. In either respect, the antecedence of motoring related offences does cause officers concern, particularly as they has all been accrued since being granted a licence by the Council.

3. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle, since the grant of a licence –

for :- ***“any other reasonable cause”***.

4. In deciding whether Mr Jones is fit and proper Members must have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

Chapter 2. – Conditions of Licence

Paragraph 12.3 states that when considering whether someone is fit and proper the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Criminal record (as to relevance of offences see below)
- Previous history as a licence holder

Paragraph 18.2 requires that in considering whether a person is fit and proper each case is considered on its own merits.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is not, for example, fit and proper.

Paragraph 8.2 requires that when considering revocation, the committee will take into account all relevant facts and circumstances including licensing objectives, nature of the breach and any other information thought to be pertinent to the matter being considered.

The licensing objectives are as follows:

- 1. Safety and health of drivers and the public** - e.g. Consideration of history of convictions and actions, Driver training, qualification and performance, health and fitness to fulfill the role and Crime prevention measures.
- 2. Vehicle safety, comfort and access**
- 3. To prevent crime and disorder and to protect consumers** - e.g. commitment to work with the police and licensing authorities
- 4. To encourage environmental sustainability.**

Paragraph 10.2 gives the committee the discretion to direct a driver appearing them to complete further training or re - training should the drivers' suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 – states that in making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - states that a motoring offence is a relevant offence for considering the suitability of a person to retain a licence.

5. Members are made aware that the offence of speeding committed on 17 November 2008 in Paignton was in a licensed Private Hire vehicle, not owned by Mr Jones but loaned to him as a courtesy car.
6. Members are asked to consider whether Mr Jones is a “fit and proper” person in light of the above conviction, driving licence endorsements and guidance.
7. Mr Jones has been invited to attend this Licensing Committee in order that this matter may be considered, which was adjourned from the previous meeting, as the Legal Representative for Mr Jones was not available.

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CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status following Motoring Disqualification

Committee Licensing Committee (Hackney Carriage)

Date: 3 December 2009

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: George Curness – Assistant Licensing Officer

Contact: Tel: 01752 307964
e-mail: george.curness@plymouth.gov.uk

Ref: ERS/LIC/GC/sem,

Part: I

Executive Summary:

Mr. Stuart Edward Munnery is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 25 February 2008. Mr. Munnery's present licence is due to expire on 24 February 2010.

On 13 October 2009, Mr Munnery telephoned the Licensing Office and stated that he had been to Court regarding a motoring offence and was disqualified from driving.

Mr Munnery has been invited to attend this Licensing Committee in order that this matter may be considered.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and Reasons for recommended action:

That Members of the Licensing Committee consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating SMT Member											

Report

1. Mr. Stuart Edward Munnery is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 25 February 2008. Mr. Munnery's present licence is due to expire on 24 February 2010.
2. On 13 October 2009, Mr. Munnery telephoned the Licensing Office and stated that he had been to Court regarding a motoring offence and was disqualified from driving. On 20 October 2009, Mr. Munnery voluntarily surrendered his Private Hire driver's licence and I/D badge. A memo of conviction was requested from Plymouth Magistrates' Court on 20 October 2009, a reply was received on 21 October 2009 which revealed the following information.

On 12 October 2009 at Plymouth Magistrates' Court.

Convicted of speeding. On 11 April 2009 at Plymouth drive a motor vehicle, namely a Ford Mondeo index number Y522NJB, on a restricted road, namely Outland Road, at a speed exceeding 30 miles per hour. Contrary to S 81(1) and 89 (1) of the Road Traffic Regulation Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr. Munnery was fined £60 and ordered to pay £60 costs and £15 victim surcharge, he was also disqualified from driving for 6 months, the disqualification was obligatory due to repeat offending. His DVLA licence was endorsed with 3 penalty points.

An inspection of Mr. Munnery's DVLA licence reveals a further 15 current penalty points on his licence. These are comprised of 4 offences for speeding on 12 December 2006, 21 July 2007, 4 March 2008 and 18 April 2008. Mr Munnery was given a fixed penalty fine and 3 penalty points on each of these occasions. On 13 October 2008, Mr Munnery was convicted for an offence of speeding on 18 April 2008. He was fined £100 and had his DVLA licence endorsed with 3 penalty points. At sentencing on 19 November 2008, the Magistrates found exceptional hardship and chose not to impose a period of disqualification on that occasion.

Members are made aware that the vehicle used on the offences which resulted in conviction was a licensed Private Hire vehicle which is owned by Mr Munnery.

3. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle, since the grant of a licence –

for :- ***“any other reasonable cause”***.

4. In deciding whether Mr. Munnery is fit and proper Members must have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

Chapter 2. – Conditions of Licence

Paragraph 12.3 states that when considering whether someone is fit and proper the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Criminal record (as to relevance of offences see below)
- Previous history as a licence holder

Paragraph 18.2 requires that in considering whether a person is fit and proper each case is considered on its own merits.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is not for example fit and proper or a breach of the condition of licence has been established.

Paragraph 8.2 requires that when considering revocation, the committee will take into account all relevant facts and circumstances including licensing objectives, nature of the breach and any other information thought to be pertinent to the matter being considered.

The licensing objectives are as follows:

- 1. Safety and health of drivers and the public** - e.g. Consideration of history of convictions and actions, Driver training, qualification and performance, health and fitness to fulfill the role and Crime prevention measures.
- 2. Vehicle safety, comfort and access**
- 3. To prevent crime and disorder and to protect consumers** - e.g. commitment to work with the police and licensing authorities
- 4. To encourage environmental sustainability.**

Paragraph 10.2 gives the committee the discretion to direct a driver appearing before them to complete further training or re - training should the drivers' suitability to retain a licence be called into question.

Appendix A – Guidance on the Relevance of Convictions

Paragraph 1 - states that in making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - states that a motoring offence is a relevant offence for considering the suitability of a person to retain a licence as is disqualification from driving a motor vehicle at any time in the five years prior to applying for a licence (time to run from the expiry of the disqualification).

5. Members are made aware that Mr. Munnery appeared before them on 8 January 2009, where Members considered Mr. Munnery's driving record, and in particular the Court appearance on 19 November 2008. Members resolved to suspend Mr Munnery's Private Hire driver's licence for 3 days.

6. Officers are concerned that Mr Munnery has received 2 speeding convictions and 4 fixed penalty notices on his DVLA licence, all for speeding offences. Four of these have been endorsed on his DVLA licence since being granted a Private Hire driver's licence. He also appeared before Members of the Licensing Committee after his last conviction and received a period of suspension, but has nevertheless gone on to commit a further offence after that suspension which has resulted in a period of disqualification.
7. Members are made aware that Mr. Munnery kept in touch with the Licensing Office at all times during this period.
8. Mr. Munnery has been invited to attend this Licensing Committee in order that this matter may be considered.

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CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Diver Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 3 December 2009
Cabinet Member: Councillor Brookshaw
CMT Member: Director for Community Services
Author: Mark Small – Senior Taxi Licensing Officer
Contact: Tel: 01753 307984
e-mail: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MTS/jlw
Part: I

Executive Summary:

Mr Jonathon Luke Warner is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by the Council on the 15 November 2007. This was subsequently renewed on the 13 November 2008 and again on 13 November 2009.

It was observed that at his latest renewal of licence, his DVLA driving licence had been endorsed with the matters referred to in the body of the report.

Mr Warner has been invited to attend this Licensing Committee in order that this matter may be considered.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety, Risk Management , Equalities Impact Assessment, etc.

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and Reasons for recommended action:

Members of the Licensing Committee consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

(Insert)

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating SMT Member											

Report

1. Mr Warner is a licensed Hackney Carriage driver, having been first granted a licence to drive Hackney Carriages on the 15 November 2007. This was subsequently renewed on the 13 November 2008, and again on the 13 November 2009.
2. At the last renewal of licence, it was noticed that his DVLA driving licence had been endorsed by means of fixed penalty notices on three occasions since the renewal of licence in November 2008. The endorsements are provided below.

On the 04 December 2008, licence endorsed with three penalty points for Failing to Comply with Traffic Light signal.

On the 01 February 2009, licence endorsed with three penalty points for Failing to Comply with Traffic Light signal.

On the 05 February 2009, licence endorsed with three penalty points for Failing to Comply with Traffic Light signal.

The above offences appear to indicate that Mr Warner either has a lack of awareness of, or is demonstrating a complete disregard for the rules and regulations relating to the use of motor vehicles on the public highway. In either respect, the history of traffic signal offences does cause officers concern, particularly as they have all been accrued since being granted a licence by the Council, and in a very short period of time.

3. Mr Warner was sent a warning letter on 09 September 2009 by the Licensing Section in relation to a complaint received from a member of the public. The complaint was prompted by what the complainant described as “*aggressive, irresponsible and dangerous driving*”. Officers introduce this complaint as it also relates to the standard of driving of Mr Warner. The complaint, together with the letter of warning is annexed to this report as Annex A.
4. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle, since the grant of a licence –

for :- “***any other reasonable cause***”.

5. In deciding whether Mr Warner is fit and proper Members must have regard to the Council’s Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

Chapter 2. – Conditions of Licence

Paragraph 12.3 states that when considering whether someone is fit and proper the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Criminal record (as to relevance of offences see below)
- Previous history as a licence holder

Paragraph 18.2 requires that in considering whether a person is “fit and proper” each case is considered on its own merits.

Paragraph 19.3 states that an existing licensed driver will be required to have the status of their driving licence reviewed on the third occasion of receiving a fixed penalty notice, after being sent a warning letter. At the time of receiving the fixed penalty notices Mr Warner was not under a duty to inform the Licensing Section that his licence had been endorsed, therefore the Licensing Section were not in a position to send the warning letters which would have occurred in normal circumstances. Please note: Plymouth City Council adopted new Byelaws for the Hackney Carriage trade that were adopted on the 14 July 2009 which now make it a duty to inform this office of a motoring or similar offence within 7 days.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is not, for example, fit and proper.

Paragraph 8.2 requires that when considering revocation, the committee will take into account all relevant facts and circumstances including licensing objectives, nature of the breach and any other information thought to be pertinent to the matter being considered.

The licensing objectives are as follows:

- 1. Safety and health of drivers and the public** - e.g. Consideration of history of convictions and actions, Driver training, qualification and performance, health and fitness to fulfill the role and Crime prevention measures.
- 2. Vehicle safety, comfort and access**
- 3. To prevent crime and disorder and to protect consumers** - e.g. commitment to work with the police and licensing authorities
- 4. To encourage environmental sustainability.**

Paragraph 10.2 gives the committee the discretion to direct a driver appearing them to complete further training or re - training should the drivers' suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 – states that in making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - states that a motoring offence is a relevant offence for considering the suitability of a person to retain a licence.

6. Members are asked to consider whether Mr Warner is a “fit and proper” person in light of the above driving licence endorsements and Council and taking into consideration the Council's own guidance.
7. Mr Warner has been invited to attend this Licensing Committee in order that this matter may be considered.

Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

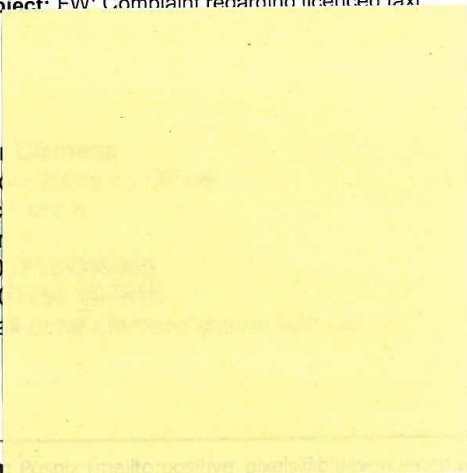
Page 1 of 1

Curness, George (DEVELOPMENT)

From: Clemens, Peter (DEVELOPMENT)
Sent: 01 September 2009 15:35
To: Taxi Licensing
Subject: FW: Complaint regarding licenced taxi

Tel: 01752 307964
Fax: 01752 226314
Email: public.protection@plymouth.gov.uk
www.plymouth.gov.uk

Peter
Senior
Civic
Floor
Tel 0
Fax 0
E-ma



From: [Redacted] k]
Sent: Tuesday, September 01, 2009 3:24 PM
To: Licensing (DEVELOPMENT)
Subject: Complaint regarding licenced taxi

Dear Sirs,

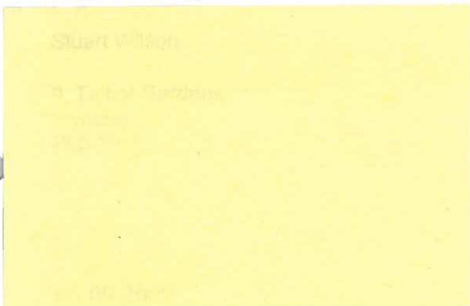
I understand from the PCC website that I should direct any complaints relating to licenced taxis to this department.

I wish to complain about a taxi, bearing the plate '748' , registration SF53ZLN. I was driving along Poole Park Road at 12:05 today. I was not alone in my vehicle. The Taxi approached me at excess speed and drove aggressively and close behind me. This is a 20 mph speed restricted area and I was clearly inhibiting him from speeding.

As I passed over the railway bridge in Barne Road and stopped at the junction with Wolseley Road, intending to turn left with the traffic, I was faced with an oncoming bus in the bus lane. For no justifiable reason, the taxi driver was impatiently beeping his horn at me. When the road was clear and I pulled away from the junction he used the bus lane to *undertake* me at speed and pulled immediately in front of me in order to command the right hand lane so he could turn right around Trelawney Place. He held the right hand lane as if he were heading towards the taxi rank in St Budeaux Square until moments before the zebra crossings at which time he changed lanes without indicating and drove up Victoria Road, again at excess speed.

This was aggressive, irresponsible and dangerous driving from an allegedly 'professional' driver. I would appreciate any advice you might wish to offer on this subject and ask that my complaint be formally registered and acted upon.

Yours sincerely,





Mr J Warner
26 Wycliffe Road
Plymouth
PL3 6BZ

When calling or telephoning please ask for: George Curness

My Ref: GC/LD/754125

Date: 9 September 2009

Dear Mr Warner

I have received a complaint from a member of the public regarding an alleged incident of aggressive driving.

The complainant states that on 1 September 2009 at around midday, the complainant was driving along Poole Park road, and the driver of Hackney Carriage 748 approached his car at speed and stayed close behind the complainant's car until the junction of Wolseley Road.

At the junction, while the complainant was waiting to drive into Wolseley Road, the driver of 748 is alleged to have hooted the horn, and on moving into Wolseley Road, undertook the complainant's car, and immediately pulled in front of the complainant, before driving, at speed, into Victoria Road. The complainant feels that this was aggressive and dangerous.

I do not intend to take any further action in this matter, but, if there is any substance to these allegations, it is not the standard of driving that is expected from a licensed, professional driver.

This letter will be filed and may be referred to if a similar complaint is received. Should you wish to speak to me on this Matter, I can be reached on the above number.

Yours faithfully

George Curness
Assistant Licensing Officer(Taxis)
Public Protection Service

By virtue of paragraph(s) 3, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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