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LICENSING COMMITTEE (HACKNEY CARRIAGE)

DATE: THURSDAY 2 SEPTEMBER 2010
TIME: 10.00 AM
PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Members –
Councillor Fox, Chair
Councillor Delbridge, Vice Chair
Councillors Bowie, Drean, Haydon, Rennie and Reynolds

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 - 12)

To confirm the minutes of the meetings held on 8 July 2010 and 5 August 2010.

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. 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.

7. CONFIDENTIAL MINUTES (E3 AND E7)

(Pages 13 - 16)

To confirm the confidential minutes of the meeting held on 8 July 2010 and 5 August 2010.

8. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - PRH (E3 AND E7)** (Pages 17 - 22)

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

9. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - SV (E3 AND E7)** (Pages 23 - 26)

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

10. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - AJE (E3 AND E7)** (Pages 27 - 32)

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

11. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - BP (E3 AND E7)** (Pages 33 - 38)

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

LUNCH 1PM - 2PM

12. **APPLICATION FOR THE GRANT OF AHACKNEY CARRIAGE DRIVER'S LICENCE - TRR (E3 AND E7)** (Pages 39 - 44)

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

13. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - RSG (E3 AND E7)** (Pages 45 - 50)

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 - DCW (E3 AND E7)** (Pages 51 - 56)

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

15. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - CC (E3 AND E7)** (Pages 57 - 64)

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 8 July 2010

PRESENT:

Councillor Fox, in the Chair.
Councillor Delbridge, Vice Chair.
Councillors Bowie, Drean, Haydon and Rennie.

Apology for absence: Councillor Reynolds.

Also in attendance: Andrea Gilbert – Lawyer, Mark Small - Senior Licensing Officer

The meeting started at 10.00 am and finished at 4.45 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.

19. DECLARATIONS OF INTEREST

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

20. MINUTES

Agreed that the minutes of the meeting held on 10 June 2010 are confirmed as a correct record.

21. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

22. APPEAL CASES

The committee was informed that a recent appeal had been unsuccessful.

23. EXEMPT INFORMATION

Agreed that under Section 100(A)(2) and (4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of confidential/exempt information as defined in paragraph 4 of Part 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

24. CONFIDENTIAL MINUTES

Agreed that the minutes of the meeting held on 10 June 2010 are confirmed as a correct record.

25. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS - RD**

The committee having heard from RD

Agreed that this matter is adjourned until the next committee meeting in August 2010 and RD informed that if he attended that committee without legal representation, then the matter would proceed on that date in any event.

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

26. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS - TKS**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from TKS;
- (c) heard details of TKS's conviction.

Agreed that the committee invoke its powers under the Plymouth City Council Act, 1975 and deem TKS to be no longer a fit and proper person and revoke his licence accordingly.

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

27. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - ZM**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from ZM.

Agreed that the application is granted subject to completing the remaining pre-requisite test which is the medical; ZM is also required to complete Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within 12 months from the date of being first licensed to comply with Plymouth City Council's Hackney and Private Hire Licensing policy.

28. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - SV**

The committee having –

Resolved that –

- (a) considered the report of the Director for Community Services;
- (b) heard from SV.

Agreed that the application is granted subject to completing the remaining pre-require test which are the knowledge, driving and medical. SV is also required to complete Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within 12 months from the date of being first licensed to comply with Plymouth City Council's Hackney and Private Hire Vehicle Licensing policy.

29. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - RL**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from RL.

Agreed that the application is granted subject to the completion of the Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within 12 months from the date of being first licensed to comply with Plymouth City Council's Hackney and Private Hire Vehicle Licensing policy.

(Note: the meeting moved back into Part I)

COMMITTEE MOVED INTO PART I

30. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - M KOHAJDA**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from Mr Kohajda;
- (c) heard details of Mr Kohajda's motoring convictions;
- (d) taken into account –
 - the two speeding offences that were committed while Mr Kohajda was not working in his capacity as a Private Hire driver and he had now left his other job, in order to concentrate on becoming a better taxi driver;
- (e) Members were concerned that –
 - two of the motoring offences were committed during the

probationary first year of Mr Kohajda being granted a Private Hire driver's licence;

- Mr Kohajda had accumulated 11 points in less than two years of working as a Private Hire driver;
- none of the fixed penalties or convictions were declared to the Licensing Department as required by the conditions of Mr Kohajda's Private Hire Driver's licence.

It was Agreed that -

Mr Kohajda's conviction and fixed penalty fines all related to motoring offences and had been acquired since the commencement of his employment as a Private Hire Driver.

The offences showed a disregard for the rules of the road. Members were concerned that this reflected Mr Kohajda's attitude towards public safety and therefore require Mr Kohajda to complete the level 2 VRQ in transporting passengers by taxi and private hire or equivalent qualification within 12 months in respect of those offences.

Not reporting the convictions indicated a disregard for the conditions of Mr Kohajda's licence and in respect of these breaches, Members considered it to be reasonable and proportionate to suspend your licence for two days.

If the qualification is not completed within the required period Mr Kohajda will be brought back before the committee at that time.

31. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - I BANCIU**

The committee having –

- (a) considered the report of the Director for Corporate Support;
- (b) heard from Mr Banciu;
- (c) heard details of Mr Banciu motoring convictions;
- (d) taken into account that -
 - since Mr Banciu received the two convictions, he had achieved a Level 2 Btec in Transporting Passengers by Taxi and Private Hire, which he took under his own volition;
 - no further offences had been committed since May 2009;
 - Mr Banciu stated that he was not fully aware of the conditions attached to his Private Hire Drivers Licence.

(e) Members were concerned that –

- the first offence of using a mobile telephone whilst driving a motor vehicle was committed within 12 months of Mr Banciu being licensed as a Private Hire driver;
- Mr Banciu had accumulated nine points in less than two years of working as a Private Hire driver;
- none of these fixed penalties or convictions were declared to the Licensing Department as required by the conditions of his Private Hire driver's licence;
- as a Private Hire driver licensed by Plymouth City Council he should be fully aware of all the conditions attached to his licence.

It was therefore Agreed that -

Mr Banciu's conviction and fixed penalty fines related to the motoring offences and had been acquired since the commencement of his employment as a Private Hire driver.

The offences showed a disregard for the rules of the road and Members were concerned that this reflected his attitude towards public safety. Therefore Mr Banciu's Private Hire Driver's licence would be suspended for one day in respect of these motoring offences under the powers contained within the Plymouth City Council Act 1975...

Not reporting the convictions indicated a disregard for the conditions of Mr Banciu's Private Hire Drivers Licence and in respect of these breaches, Members considered it reasonable and proportionate to suspend Mr Banciu's licence for a period of 5 days.

Mr Banciu's private hire driver's licence would therefore be suspended for a total of 6 days in respect of the motoring offences and breach of conditions.

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Licensing Committee (Hackney Carriage)

Thursday 5 August 2010

PRESENT:

Councillor Fox, in the Chair.
 Councillor Delbridge, Vice Chair.
 Councillors Bowie, Drean, Haydon and Rennie.

Councillor Bowie was not present until item 37 on the agenda.

Also in attendance:

Sharon Day, Lawyer
 George Curness, Assistant Licensing Officer

The meeting started at 10.00 am and finished at 3.20 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.

32. DECLARATIONS OF INTEREST

The following declaration of interest was made in accordance with the Code of Conduct in relation to an item under consideration at this meeting –

Name	Subject	Reason	Interest
Councillor Bowie	Minute38 Licensed Private Hire Driver Review of Licence Status – P Colwill	Had previously dealt with the applicant and his wife in her capacity as a ward councillor.	Personal

33. MINUTES

Agreed that –

- (1) the minutes of the meeting held on 1 July 2010 are confirmed as a correct record.
- (2) the approval of the minutes of the meeting on 8 July 2010 be deferred until the next meeting.

34. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

35. **APPEAL CASES**

The Committee was informed that there were no appeal cases since the last meeting.

36. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - J A HAJDUK**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Hajduk;
- (c) taken into account that –
 - Mr Hajduk had been licensed since April 2007;
 - the last offence was committed over 12 months ago;
 - Mr Hajduk had no further points on his licence since the conviction in November 2009;
 - Mr Hajduk wasn't aware that he had to declare any conviction within 7 days and whilst he understood he had received convictions he was under a misapprehension that the court would inform Plymouth City Council;
 - motoring offences were relevant offences under the terms of the Council's licensing policy;
 - during his time as a licensed driver Mr Hajduk had also received two warning letters one in respect of waiting on a hackney carriage stand in contravention of Section 22 of the Plymouth City Council Act 1975 and the other in respect of disorderly behaviour.

Members were concerned that –

- since being licensed Mr Hajduk had accumulated 19 penalty points on his licence all of which were incurred for speeding offences;
- Mr Hajduk had not declared any penalty points on renewal of his licence in 2008 or 2009 and had actually stated he did not have any criminal convictions which was incorrect;
- Mr Hajduk had failed to report the convictions in accordance with the conditions of his private hire drivers

licence;

- the number of motoring offences demonstrated a pattern of offending behaviour.
- during questioning Mr Hajduk seemed to suggest that he considered speeding as hazard of the job.

The Committee agreed that the accumulation of 19 penalty points in a just over a three year period all for speeding offences showed both a disregard for the rules of the road and a disregard for public safety.

The failure to note the convictions when renewing the licence in 2008 and 2009 and the failure to report the convictions in accordance with the conditions of licence did not show a commitment to work with the Licensing authority.

Having taken into account all of the above Members considered that it was proportionate to suspend Mr Hajduk's Private Hire Driver's licence for a period of 10 days in respect of his failure to report his convictions.

In addition to address Members concerns regarding public safety, Mr Hajduk is required to re take his driving test within two months and also to undertake the Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification; which he is to commence within the next six months.

37. **LICENSED HACKNEY DRIVER REVIEW OF LICENCE STATUS - M CASSELL**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Cassell;
- (c) taken into account that –
 - he had been a driver since 1997;
 - he did not notify the Council of the conviction in accordance with the Hackney Carriage Byelaws;
 - he had notified the Council as soon as he had received his licence back from DVLA but realised now that he should have notified the Council in writing within 7 days of the conviction;
 - he had no previous convictions and had always notified the authority in accordance with requirements in the past.

The Committee agreed that having taken into account all of the above and the circumstances described by Mr Cassell, no action would be taken against his licence on this occasion but that he would be given a warning which would remain on his file and would be brought to committee's attention in the future.

38. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - P COLWILL**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Colwill;
- (c) taken into account that –
 - he had been a licensed driver since 2003;
 - he was convicted of speeding on the 7 September 2009 and had not reported the conviction in accordance with the terms of his private hire driver's licence;
 - he stated that the offence was committed on his way back from holiday so he was not working at the time. He also said that he had written in to the Council to advise of the conviction. The licensing officer confirmed that there was no record of any notification being received.

Members were concerned that the failure to notify in accordance with the conditions of his private hire driver's licence did not demonstrate a commitment to work with the licensing authority.

The Committee agreed that having taken into account all of the above, Mr Colwill's licence would be suspended for a period of 3 days for the failure to report in accordance with the conditions of his licence.

(Councillor Bowie declared a personal interest and did not participate in this item.)

39. **EXEMPT INFORMATION**

Agreed that Section 100(A) (2) and (4) of the Local Government Act 1972, the press and public are excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of confidential/exempt information as defined in paragraphs 3 and 7 of Part 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

40. **CONFIDENTIAL MINUTES (E3 AND E7) (TO FOLLOW)**

Agreed that the approval of the confidential minutes of the meeting on 8 July 2010 be deferred until the next meeting.

41. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS - RD (E3 AND E7)**

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered a fax received from RDs solicitor requesting that the case be adjourned until after the outcome of the court case was known.

Agreed that the matter would be adjourned until more evidence was available to allow the committee to reach a decision.

(Councillors Bowie and Haydon had serious concerns about the decision of the committee and wanted their concerns were noted in the minutes on the grounds of public safety.)

Recommended that a special Licensing Hackney Carriage Committee meeting be scheduled to invite Licensing Officers, Legal Officers, relevant police representatives, Licensing Hackney Carriage Committee members and the Cabinet Member for Customer Services (Safer and Stronger Communities and Leisure, Culture and Sport) to look at the Policies and Procedures around items being submitted to the Licensing Hackney Carriage Committee where the evidence is not complete.

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

The Committee agreed that due to JS's non attendance at the Committee that the application would be held on file until such time as the applicant contacts the licensing department.

43. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS - SR (E3 AND E7)**

The committee having heard from SR agreed that the matter would be adjourned until the 30 September 2010 to allow SR to seek legal advice.

44. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS - TW (E3 AND E7)**

The Committee having –

- (a) considered the report from the Director for Community

Services;

- (b) decided to consider the matter in TW's absence as he had previously failed to attend and had been warned that the matter would be heard in his absence if he failed to attend again.

The Committee agreed to revoke TW's Hackney Carriage driver's licence on the grounds of concerns for public safety. The Council's policy states that licences will not generally be granted to those with convictions for drug offences and that this guideline applies when considering the suitability of a person to retain a licence and members could see no reason to depart from their policy in this case.

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

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

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