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LICENSING COMMITTEE (HACKNEY CARRIAGE)

DATE: THURSDAY 21 APRIL 2011

TIME: 10AM

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.

Please note that, unless the Chair agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used during meetings.

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 - 6)

To confirm the minutes of the meeting held on 31 March 2011.

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. LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - M PETRESCU **(Pages 7 - 12)**

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

7. 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.

8. CONFIDENTIAL MINUTES (E3 AND E7) (Pages 13 - 16)

To confirm the confidential minutes of the meeting held on 31 March 2011.

9. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - IRH (E3 AND E7) (Pages 17 - 22)

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 - DJB (E3 AND E7) (Pages 23 - 28)

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 PRIVATE HIRE DRIVER'S LICENCE - LAO (E3 AND E7) (Pages 29 - 34)

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

LUNCH 1PM - 2PM

12. LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - PRRC (E3 AND E7) (Pages 35 - 40)

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

13. LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - LP (E3 AND E7) (Pages 41 - 46)

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

14. LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - DG (E3 AND E7) (Pages 47 - 52)

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

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Licensing Committee (Hackney Carriage)

Thursday 31 March 2011

PRESENT:

Councillor Fox, in the Chair.
Councillors Drean, Haydon and Reynolds.

Apologies for absence: Councillors Bowie, Delbridge and Rennie.

Also in attendance: Sharon Day (Lawyer), James Hirst (Assistant Licensing Officer), Mark Small (Licensing Officer).

The meeting started at 10.00 am and finished at 5.00 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.

138. **DECLARATIONS OF INTEREST**

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

139. **MINUTES**

Agreed that the minutes of the meeting held on 3 March 2011 are confirmed as a correct record.

140. **CHAIR'S URGENT BUSINESS**

With the permission of the Chair Mr Wildman, Plymouth Licensed Taxi Association (PLTA) was invited to address the committee. The committee were informed that the PLTA did not condone the recent correspondence sent to all councillors about the de-limitation of taxi's in Plymouth adding that they wished to completely disassociate themselves from this correspondence.

141. **APPEAL CASES**

The Committee was advised that there were no new appeal cases since the last meeting, although one appeal was still pending.

142. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - P SICH**

The committee having –

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

- (b) heard from Mr Sich;
- (c) taken into account;
 - (i) Mr Sich had been a licensed private hire driver since 2007;
 - (ii) on the 10 November 2010 he received two convictions;
 - for using a mobile phone whilst driving and was fined £50 and three penalty points;
 - for using a vehicle with a defective tyre for which he was fined £100;
 - (iii) Mr Sich had failed to notify the Council of the convictions in accordance with the terms of his licence. He explained this was because he thought he didn't have to report it until he got his counterpart licence back from DVLA;
 - (iv) motoring offences were all relevant considerations under the Council's licensing policy;
 - (v) Mr Sich apologised for not reporting the conviction saying that in light of the fact he was still waiting to receive his counterpart licence back it would be ok to report it at renewal.

Agreed that having taken into account all that was said the committee decided that Mr Sich would be sent a warning letter in relation to the convictions and the breach of licence conditions. This warning letter would be placed on file and be brought to the committee's attention if Mr Sich appears before them again.

143. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - S QUENAULT**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Quenault;
- (c) taken into account;
 - (i) Mr Quenault had been a licensed private hire driver since 2003 and his current licence was due to expire on the 17 June 2011;
 - (ii) on the 4 January 2011 he was convicted of using his vehicle registration number N513 XFJ with the ply/cord exposed. He was fined £67 and received three penalty points. As a

result he was disqualified from holding or obtaining a driving licence for six months due to repeat offending. He confirmed that he had been working at the time;

- (iii) Mr Quenault had failed to notify the Council of the convictions and previous fixed penalty points in accordance with the terms of his licence. He explained this was because he had overlooked it and just forgotten. He didn't realise that he had to report his conviction for smoking within his vehicle;
- (iv) Motoring offences and being disqualified from driving within five years were relevant considerations under the Council's licensing policy when considering the suitability of a person to hold or retain a licence;
- (v) Mr Quenault's previous history as a licence holder showed that he had had his private hire vehicle licence suspended due to a defective tyre and faulty lights. He had also been convicted of smoking within his licensed vehicle. Both of these occurred within the last 12 months;
- (vi) that Mr Quenault intended to return to the licensing trade when he regained his DVLA licence;
- (vii) Mr Quenault said that he checked his vehicle but had just overlooked the tyre problem. He said he had checked the tyre the day before he was stopped and hadn't noticed the defect. Mr Quenault accepted that the tyre would not have got into that state in one day. He did accept that his standards had dropped and he did need to improve but that he now had a new car and would leave the checks up to someone else.

The committee were concerned that the above and the content of the report demonstrated that Mr Quenault had a complete disregard for the standard of his vehicle, the safety of his vehicle, passenger safety and comfort.

Agreed that having taken into account all of the above Mr Quenault was no longer considered to be fit and proper to hold a private hire driver's licence. The committee considered that the smoking in the vehicle, the defective tyres and cleanliness of the vehicle affected the vehicle safety, comfort and access. Failing to comply with the conditions of licence did not demonstrate a willingness to work with the licensing authority and the defective tyres and fault lights raised serious concerns for public safety all being relevant under the Council's licensing objectives. Therefore Mr Quenaults licence is revoked under section 19(1) (b) of the Plymouth City Council Act 1975.

144. **EXEMPT INFORMATION**

Agreed that under 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 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.

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

The Committee having –

- (a) considered the report from the Director for Community Services;
- (b) decided to consider the matter in PMI'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.

Agreed that PMI's hackney carriage driver's licence would be revoked in accordance with section 19(1)(b) of the Plymouth city council act 1975 as he was not considered to be fit and proper to hold a hackney carriage drivers licence.

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

146. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - DG (E3 AND E7)**

The Committee having:

- (a) considered the report from the Director for Community Services;
- (b) heard that DG had not attended nor indicated whether he would be attending. The licensing officer confirmed a letter had been sent to DG by recorded delivery advising that the matter was due to be heard today and that it would be considered in his absence if he did not attend, however this had not been signed for. A second invitation letter to today's meeting had been sent by first class post but no acknowledgement had been received.

The committee were concerned that they could not be certain that DG had received the letters advising of the hearing today and therefore agreed to adjourn the matter until the next meeting. A letter is to be sent to DG advising him of this decision and that the matter will be dealt with in his absence if he fails to attend the next meeting. The licensing officer is to also make all reasonable attempts to contact DG either by phone or in person to ensure he is aware of the next hearing date and the consequences of him failing to attend.

(Councillor Reynolds left the meeting at the end of this item and was not present for items 147, 148, 149 and 150)

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

The Committee having:

- (a) considered the report from the Director for Community Services;
- (b) heard from KPS that he had passed the driving standards test and the knowledge of Plymouth test.

Agreed that the application is granted to KPS, as with all new drivers he is required to complete the VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent qualification within the first 12 months of his licence.

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

The Committee having:

- (a) considered the report from the Director for Community Services;
- (b) heard from SAS that he had passed the driving standards test and the medical examination but had yet to do the knowledge of Plymouth test.

Agreed that the application is granted subject to SAS satisfactorily completing the remaining pre-requisite being the Knowledge of Plymouth Test. In addition, as with all new drivers, SAS is required to complete the VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent qualification within the first 12 months of his licence.

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

Due to LAO's non attendance at Committee, Members agreed that his application for the grant of a Private Hire Driver's Licence is held on file until such time as he contacts the licensing department.

150. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - DRM (E3 AND E7)**

The committee having –

- (a) considered the report of the Director for Community Services;

(b) heard from DRM.

Agreed that in light of the all of that was said DRM was not considered to be a fit and proper person to hold a hackney carriage driver's licence.

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

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Driver Licence Status

Committee Licensing Committee (Hackney Carriage)

Date: 21 April 2011

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: James Hirst, Licensing Officer

Contact: Tel: 01752 304744
e-mail: james.hirst@plymouth.gov.uk

Ref: ERS/LIC/JH/MP

Key Decision: No

Part: I

Executive Summary:

Mr. Mihai Petrescu is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 30 June 2009. His current licence is due to expire on 29 June 2011.

On 19 March 2010 Mr. Petrescu attended the licensing desk, to inform the Licensing Office that he had received 3 penalty points on his DVLA licence. At that time he filled out a Conviction, Motoring Endorsement and Caution Report Form to that effect.

On 07 March 2011 Mr. Petrescu again attended the licensing desk to inform the Licensing Department that he had received a further 6 Penalty Points on his DVLA Licence. At that time Mr. Petrescu filled out a Conviction, Motoring Endorsement and Caution Report Form to that effect.

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

Corporate Plan 2011-2014:

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

Improving access across the City

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

Not applicable.

Other Implications: e.g. Section 17 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:

None.

Sign off:

Head of Fin		Head of Leg	AZG/30-03-11/11317	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Mihai Petrescu is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 30 June 2009. His current licence is due to expire on 29 June 2011.
2. On 19 March 2010 Mr. Petrescu attended the licensing desk, to inform the Licensing Office that he had received 3 penalty points on his DVLA licence. At that time he filled out a Conviction, Motoring Endorsement and Caution Report Form to that effect.
3. On 07 March 2011 Mr. Petrescu again attended the licensing desk to inform the Licensing Office that he had received a further 6 Penalty Points on his DVLA Licence. At that time Mr. Petrescu again filled out a Conviction, Motoring Endorsement and Caution Report Form to that effect.

Details of these motoring endorsements are given below.

On 07th February 2010 Plymouth Magistrates Court:

Mr. Petrescu was issued with a Fixed Penalty Notice for Exceeding the Statutory speed Limit on a Public Road.

DVLA licence endorsed with 3 penalty points

On 27th October 2010 Plymouth Magistrates Court:

Mr. Petrescu was issued with a Fixed Penalty Notice for using a mobile phone whilst driving a Motor Vehicle.

DVLA driving licence endorsed with 3 Penalty Points.

On 16th February 2011 Plymouth Magistrates Court:

Mr. Petrescu was issued with a Fixed Penalty Notice for Failing to Comply with Traffic Light Signals.

DVLA driving licence endorsed with 3 penalty points.

At the time of writing this report Mr. Petrescu currently has 9 live penalty points endorsed on his DVLA driving licence. Members are also made aware that Mr. Petrescu was a Licensed Private Hire Licence holder at the time the above offences were committed.

4. A standard condition of licence exists which requires all Private Hire drivers to notify the Council of any motoring fixed penalty endorsements received during their licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Act 1975.

Condition 1(e) of the licence requires that:-

The licensed driver shall inform the Council of any motoring fixed penalty endorsements received, in writing within 7 days of receiving the endorsement.

5. Although Mr Petrescu did attend the licensing desk on two occasions to inform the Licensing Office in writing that he had received penalty points, neither of these

occasions were within the seven day period required by the conditions of his private hire drivers licence.

6. 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 for:-

“any other reasonable cause”.

- 7 In deciding whether Mr. Petrescu is a “fit and proper” person, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy. The relevant parts of which are detailed below:

General Policy

The Council’s Hackney Carriage and Private Hire licensing policy states that the Council will carry out its Hackney Carriage and Private Hire licensing function with a view to promoting stated objectives. Members must therefore ensure that they consider those objectives when forming a decision.

The Licensing objectives are as follows:

1. **Safety and health of drivers and the public** – e.g.
 - Consideration of history of convictions and cautions
 - Driver training, qualification and performance
 - Health and Fitness to fulfil the role
 - 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**

Chapter 2. – Conditions of Licence

Paragraph 12.3 states that when considering whether a driver is “fit and proper” the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Qualifications
- Criminal record (as to relevance of offences)
- 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 18.5 requires the Committee to have regard to the following when considering previous convictions:

- Whether they are spent or unspent.
- The nature of the offence
- The age of the offence
- The apparent seriousness as gauged by the penalty

- The relevance of the convictions in relation to the promotion of the Licensing Objectives

Chapter 4 – Enforcement Policy

Paragraph 8.1 - allows the Council to revoke any licence where it is satisfied that the licence holder is no longer, for example, fit and proper or a breach of a 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 pertinent to the matter being considered.

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

Guidance on the Relevance of Convictions

Paragraph 1 - states that the disclosure of a Criminal Record will not automatically prevent any applicant from obtaining a licence, unless it is considered that the conviction renders the applicant unsuitable. 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 motoring offences are relevant offences for considering the suitability of a person to retain a licence.

Paragraph 6 – states that driving licence endorsements which includes fixed penalties are highly relevant, although having an endorsement will not automatically preclude a person from holding a Licence.

8. Members are asked to consider whether Mr. Petrescu is a “fit and proper” person in light of the above motoring convictions.
9. Mr. Petrescu has been invited to attend this Licensing Committee in order that this matter may be considered.

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