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COUNCIL OF THE YEAR



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31 May 2011

Please ask for: Ross Johnston, Democratic Support Officer
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LICENSING COMMITTEE (HACKNEY CARRIAGE)

Date: Thursday 9 June 2011

Time: 10.00 am

Venue: Council House

Members:

Councillor Reynolds, Chair

Councillor Delbridge, Vice Chair

Councillors Bowie, Churchill, Mrs Dolan, Haydon and Rennie.

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 of the meeting agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used in meetings.

BARRY KEEL
CHIEF EXECUTIVE

AGENDA

PART I – PUBLIC MEETING

1. TO NOTE THE APPOINTMENT OF THE CHAIR AND VICE-CHAIR

The Committee will note that Councillor Reynolds was appointed Chair and Councillor Delbridge was appointed Vice-Chair at the Council's AGM held on 20 May 2011.

2. APOLOGIES

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

3. DECLARATIONS OF INTEREST

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

4. MINUTES (Pages 1 - 6)

To confirm the minutes of the meeting held on 21 April 2011.

5. CHAIR'S URGENT BUSINESS

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

6. APPEAL CASES

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

7. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - D J EDE (Pages 7 - 12)

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

8. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - S G GILES (Pages 13 - 18)

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

**9. LICENSED HACKNEY CARRIAGE DRIVER REVIEW (Pages 19 - 24)
OF LICENCE STATUS - K L DAMAREL**

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

**10. LICENSED HACKNEY CARRIAGE DRIVER REVIEW (Pages 25 - 28)
OF LICENCE STATUS - A STEFAN**

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

LUNCH 1PM - 2PM

11. 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 I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

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

12. CONFIDENTIAL MINUTES (E3 AND E7) (Pages 29 - 34)

To confirm the confidential minutes of the meeting held on 21 April 2011.

**13. LICENSED PRIVATE HIRE DRIVER REVIEW OF (Pages 35 - 40)
LICENCE STATUS - LP (E3 AND E7)**

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

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

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 - SMH (E3 AND E7) (Pages 47 - 52)

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 21 April 2011

PRESENT:

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

Apologies for absence: Councillors Bowie, Drean, Fox and Reynolds.

Also in attendance: Andrea Gilbert (Lawyer) and James Hirst (Assistant Licensing Officer).

The meeting started at 10am and finished at 3.45pm.

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.

151. **DECLARATIONS OF INTEREST**

In accordance with the code of conduct Councillor Haydon declared a personal interest in respect of minute 163.

152. **MINUTES**

Agreed that the minutes of the meeting held on 31 March 2011 are confirmed as a correct record.

153. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

154. **APPEAL CASES**

The committee was advised that there had been an appeal heard at the Magistrate's Court. The Council's decision was upheld.

155. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - M PETRESCU**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Petrescu;
- (c) heard details of Mr Petrescu's recent fixed penalty notices;

(d) taken into account that Mr Petrescu –

- did not have a passenger on board when he committed any of the offences;
- had installed a telephone system to avoid future use of his mobile phone;
- was mindful of the risk of losing his licence should he acquire further points and was driving with greater care and attention.

The committee was concerned that –

- (e) Mr Petrescu had been working as a professional driver since June 2009;
- (f) however since that date, he had received three fixed penalty notices for traffic offences and currently held nine live penalty points on his DVLA licence;
- (g) one of the offences was committed during his probationary period as a taxi driver;
- (h) Mr Petrescu had breached the conditions of his private hire driver's licence on three occasions by not informing the licensing department of his fixed penalty notices in writing within the required seven days.

Agreed that having heard how Mr Petrescu had accrued three fixed penalty notices for traffic offences in approximately 12 months, one of which he received in his first probationary year as a driver and also that there are nine penalty points currently held on his DVLA licence; the committee considered that as Mr Petrescu was a licensed private hire driver he should have regard to the rules of the road at all times; although he did notify the licensing office of his fixed penalty notices, on no occasion was any notification made within the seven day limit required by the terms and conditions of his licence; the committee is concerned that these breaches and penalties indicated a lack of respect for the safety of the public and the terms of his licence and have decided to suspend his licence for three days.

156. **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 conditional/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.

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

Agreed that the minutes of the meeting held on 31 March 2011 are confirmed as a correct record.

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

The committee having –

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

Agreed that the application for a private hire driver's licence is granted subject to the satisfactory completion of any remaining pre requisite tests. In addition as with all new drivers, IRH is required to complete the VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent within the first 12 months of his licence.

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

The committee having –

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

Agreed that the application for a private hire driver's licence is granted subject to the satisfactory completion of the pre requisite tests, namely the medical test, the driving test and knowledge of Plymouth test. In addition as with all new drivers, DJB is required to complete the VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent within the first 12 months of his licence.

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

The committee having –

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

Agreed that the committee have elected to follow its own policy guidelines and refuse LAO's application for a private hire driver's licence, as they do not consider LAO to be a fit and proper person.

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

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

The committee having –

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

Agreed that PRRC is required to resit his driving standards test and his private hire driver's licence is suspended for two days.

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

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

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from the licensing officer that LP was not present but a letter had been received advising that he would be unable to attend.

Agreed that a letter is hand delivered to LP inviting him to attend the next hearing; the letter to include a warning that if LP fails to attend then the matter may be considered in his absence.

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

The committee having –

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

Agreed that –

- (1) DG is directed to complete the Level 2 VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent within the next 12 months and attend the licensing department when this has been attained; should this qualification not be completed by April 2012 DG will be brought back before the committee and all sanctions against his licence will be considered;

- (2) a medical report is required to be provided to the licensing department dated no earlier than 1 December 2011;
- (3) DG's licence is suspended for two days, these days will be taken as arranged with the licensing office on the occasion of the return of his licence.

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

(Councillor Haydon declared a personal interest in this matter).

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CITY OF PLYMOUTH

Subject: Licensed Hackney Carriage Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 9 June 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: George Curness, Licensing Officer (Taxis)
Contact: Tel: 01752 307964
e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/dje
Key Decision: No
Part: I

Executive Summary:

Mr. David John Ede is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 6 December 2004. His current licence is due to expire on 14 March 2012.

On 15 March 2011 Mr. Ede attended an appointment at the Civic Centre to transfer his Private Hire driver's licence to Hackney Carriage. During that appointment, it was noted that Mr. Ede had received motoring convictions on his DVLA licence, which had not been reported in the correct manner.

Mr Ede 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: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety,
Health and Safety and Risk Management, Equalities Impact Assessment:**

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	SD/25.5.11/11670	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. David John Ede is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 6 December 2004. His current licence is due to expire on 14 March 2012.
2. On 15 March 2011 Mr. Ede attended an appointment at the Civic Centre to transfer his Private Hire driver's licence to Hackney Carriage. During that appointment, it was noted that Mr. Ede had received motoring convictions on his DVLA licence, which had not been reported in the correct manner. Details of these motoring convictions are detailed below.

On 9 February 2009 at Plymouth Magistrates' Court

Mr Ede was convicted of Exceeding the Statutory Speed Limit on a Public Road on 14 August 2008.

Mr Ede was fined £115 and had his DVLA licence endorsed with 3 penalty points

On 18 May 2009 at Plymouth Magistrates' Court

Mr Ede was Convicted of Failing to give Information as to the Identity of Driver.

Mr Ede was fined £525 and had his DVLA licence endorsed with 3 Penalty Points.

At the time of writing this report Mr Ede has 6 penalty points endorsed on his DVLA driving licence. Members are also made aware that Mr Ede was a Licensed Private Hire Licence holder at the time the above offences were committed.

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

Condition 1(c) of the licence requires:-

*The licensed driver to notify the Council's Licensing Unit **in writing** of any conviction in a Court of Law in respect of any Motoring and/or Criminal offences following the grant of a licence, within 7 days.*

Mr. Ede has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the conviction on 18 May 2009.

4. In respect of the conviction on 9 February 2009, there is an undated note from Mr Ede in his file which states "Had a letter earlier this week to say I was caught on camera doing 40 in a 30 zone on Wolseley Rd. 3 points and £60 fine". A file note made by the Technical Support team states that on 4 December 2008, during his Private Hire drivers licence renewal, a letter was handed in by Mr Ede which stated 3 points received. It is for Members to decide whether or not this written notification prior to conviction was sufficient to comply with Condition 1(c). Also on his renewal application dated 5 December 2008, Mr Ede has written in the section dealing with convictions that he had a speeding conviction resulting in 3 penalty points on the 1 December 2008. This conviction does not show up on Mr Ede's DVLA licence.
5. Members are asked to consider whether Mr Ede is a fit and proper person and whether any action should be taken against his Hackney Carriage Driver's licence in light of the above motoring convictions and breach of his Private Hire Driver's licence conditions. In reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy.

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. The relevant parts of the Council's policy 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 someone 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.

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 a criminal record does not automatically prevent an applicant from obtaining a licence unless the Council considers 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 a motoring conviction is a relevant offence for considering the suitability of a person to retain a licence.

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

Paragraph 8 – states that any driver who receives a conviction within their licence period will be referred to the Licensing Committee (Hackney Carriage) in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

8. Mr. Ede 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 Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 9 June 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: George Curness, Licensing Officer (Taxis)
Contact: Tel: 01752 307964
e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/sgg
Key Decision: No
Part: I

Executive Summary:

Mr. Stephen George Giles is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 21 October 2009. His current licence is due to expire on 10 April 2012.

On 9 May 2011 information was received from the Police Road Safety Officer, informing a Licensing Officer of a conviction in Court on 3 May 2011.

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

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.

Alternative options considered and reasons for recommended action

Background papers:

Sign off:

Head of Fin		Head of Leg	SD/26.5.11/11801	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Stephen George Giles is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 21 October 2009. His current licence is due to expire on 10 April 2012.
2. On 9 May 2011 information was received from the Police Road Safety Officer, informing the Licensing Office, of a conviction in Court on 3 May 2011. A memo of conviction was requested from Plymouth Magistrates' Court on 13 May 2011 and a reply was received on 25 May 2011 which revealed the following information.

On 3 May 2011 at Plymouth Magistrates' Court

Mr Giles was convicted of driving without insurance on the 16 March 2010, contrary to S.143 Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

"On 16/03/2011 at Plymouth did use a motor vehicle, namely a Vauxhall Vectra index number KR56UPN on a road or other place namely Beaumont Road, St Judes when there was not in force in relation to that use, such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part 6 of the Road Traffic Act 1988"

Mr Giles was fined £375, and ordered to pay £85 costs and £15 victim surcharge. His DVLA licence was endorsed with 7 penalty points.

At the time of writing this report Mr Giles has no other current penalty points endorsed on his DVLA driving licence. Members are also made aware that Mr Giles was a Licensed Private Hire Licence holder at the time the above offence was committed, the vehicle index number KR56UPN is a licensed Private Hire vehicle.

3. A standard Condition of Licence exists which requires all Private Hire drivers to notify the Council of any convictions received during their licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(c) of the licence requires:-

*The licensed driver to notify the Council's Licensing Unit **in writing** of any conviction in a Court of Law in respect of any Motoring and/or Criminal offences following the grant of a licence, within 7 days.*

4. At the time of writing this report it would seem that Mr. Giles has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the conviction on 3 May 2011.
5. Members are asked to consider whether Mr Giles is a "fit and proper" person in light of the above motoring conviction and breach of licence condition.
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. Giles 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 someone 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.

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 a criminal record does not automatically prevent an applicant from obtaining a licence unless the Council considers 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 convictions is a relevant offence for considering the suitability of a person to retain a licence.

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

Paragraph 8 – states that any driver who receives a conviction within their licence period will be referred to the Licensing Committee (Hackney Carriage) in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

8. Mr. Giles 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 Hackney Carriage Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 9 June 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: James Hirst, Licensing Officer (Taxis)
Contact: Tel: 01752 304744
e-mail: james.hirst@plymouth.gov.uk
Ref:
Part: I

Executive Summary:

Mr Kevin Lee Damarell is a Hackney Carriage driver having been first licensed by this Council on the 26 July 2006 as a Private Hire driver. On the 13 May 2008, Mr. Damarell transferred to a Hackney Carriage driver licence, and that licence was renewed on the 15 July 2010 and is due to expire on the 25 July 2011.

On the 3 May 2011, Mr. Damarell attended the Licensing desk and handed in a letter informing the Licensing Office that he has received 3 penalty points on his DVLA driving licence for a speeding offence.

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

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	SD/25.5.11/11792	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr Kevin Lee Damarell is a Hackney Carriage driver having been first licensed by this Council on the 26 July 2006 as a Private Hire driver. On the 13 May 2008, Mr Damarell transferred to a Hackney Carriage driver licence, and that licence was renewed on the 15 July 2010 and is due to expire on the 25 July 2011.
2. On the 3 May 2011, Mr Damarell attended the Licensing desk and handed in a letter informing the Licensing Office that he has received 3 penalty points on his DVLA driving licence for a speeding offence.
3. On inspection of Mr Damarell's file it is noted that he already has 6 live penalty points on his DVLA licence for speeding offences, all of which were reported to the Council in the correct manner.

Details of these motoring endorsements are given below:

On 21 August 2008:

Mr Damarell was issued with a Fixed Penalty Notice for Exceeding Statutory Speed Limit on a Public Road.

DVLA driving licence was endorsed with 3 Penalty Points

On 27 September 2009:

Mr Damarell was issued with a Fixed Penalty Notice for Exceeding Statutory Speed Limit on a Public Road.

DVLA driving licence was endorsed with 3 Penalty Points.

On 1 May 2011:

Mr Damarell was issued with a Fixed Penalty Notice for Exceeding Statutory Speed Limit on a Public Road.

DVLA driving licence was endorsed with 3 Penalty Points.

Members are made aware that Officers are concerned that the above offences were committed during Mr Damarell's time as a licensed driver.

4. By way of additional information, Members are advised that Mr Damarell's DVLA licence was previously endorsed with 3 penalty points in respect of using a mobile phone whilst driving a motor vehicle in 2007. The penalty points incurred as a result of that offence are no longer live but considered relevant in this particular case in respect to establish pattern of offending. At the time of this endorsement the licensing section wrote to Mr Damarell warning him about the standard of his driving and advising that the warning would be taken into consideration if other instances of driving offences arose.

At the time of writing this report Mr. Damarell has a total of 9 live penalty points endorsed on his DVLA driving licence.

5. Members are asked to consider whether Mr. Damarell is a "fit and proper" person in light of the motoring offences contained within this report, all of which directly relate to the use of vehicles licensed by Plymouth City Council. In deciding whether Mr. Damarell is a "fit and

proper” person, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy.

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. The relevant parts of the Council’s policy 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 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.**

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
- Qualifications
- 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 19.1 states that the Council will have regard to fixed penalties when considering if an applicant is a fit and proper person.

Paragraph 19.3 states that similar provisions are proposed for existing drivers who received endorsements on their driving licence. An isolated fixed penalty will not generally require any action by the Council; a driver receiving a further endorsement during their licence period will be sent a warning letter. A further endorsement after being sent a warning letter, will require the driver to appear before the Licensing Committee (Hackney Carriage) for the status of the licence to be reviewed. In Mr Damerell’s case he was sent a warning letter about the standard of his driving in August 2007 and again in October 2009 advising him if he received any further penalty points it may place his private hire licence in jeopardy.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is, for example, no longer a 'fit and proper' person.

Paragraph 8.2 - Requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, the 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 them to complete further training or re training should the driver's suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 2 – states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

Paragraph 6 – states that as grant of a private hire or hackney carriage licence permits the transport of members of the public around the city, it follows that driving licence endorsements, which includes fixed penalties, are highly relevant.

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

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Subject: Licensed Hackney Carriage Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 9 June 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: George Curness, Taxi Licensing Officer
Contact: Tel: 01752 307964
e-mail: george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/as
Key decision: No
Part: 1

Executive Summary:

Mr Adam Stefan is a Hackney Carriage driver having been licensed by this Council on 18 January 2011 as a Private Hire driver. His current licence is due to expire on the 17 January 2012.

On 5 April 2011, Mr Stefan attended an appointment at the Civic Centre to transfer his Private Hire drivers licence to Hackney Carriage. On 16 April 2011, a copy of a Notice of Endorsement of Licence from Plymouth Magistrates' Court was received.

Mr Stefan has been invited to attend this Licensing Committee in order that these matters 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: eg. Section 17 of the Crime Disorder Act 1998 - Community
Safety, Health and Safety and Risk Management, Equalities Impact Assessment:**

Members should be aware that Section 17 of the Crime Disorder Act 1998 puts 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.

Report

1. Mr Adam Stefan is a Hackney Carriage driver having been licensed by this Council on 18 January 2011 as a Private Hire driver. His current licence is due to expire on the 17 January 2012.
2. On 5 April 2011, Mr Stefan attended an appointment at the Civic Centre to transfer his Private Hire drivers licence to Hackney Carriage. On 16 April 2011, a copy of a Notice of Endorsement of Licence from Plymouth Magistrates' Court was received.

Details of the endorsement are given below.

29 March 2011 at Plymouth Magistrates Court.

Mr Stefan was convicted of Using a hand-held Mobile Phone While Driving a Motor Vehicle on a road.

He was Fined £45, ordered to pay £15 Victim Surcharge, and his DVLA licence endorsed with three penalty points.

On 23 January 2011 Mr Stefan drove a motor vehicle, namely FB04FWW, on a road, namely A386, Manadon Flyover, City bound, when he was using a hand held mobile phone. Contrary to Regulation 110(1) of the Road Vehicles (Construction and Use) Regulations 1986, Section 41D of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988

3. Members are made aware that the vehicle, FB04FWW, was a licensed vehicle, rented to Mr Stefan, at the time of the incident. Members are also made aware that the offence was committed within 5 days of Mr Stefan being granted a licence to drive Private Hire vehicle.
4. Members are asked to consider whether Mr Stefan is a "fit and proper" person in light of the conviction revealed above. Mr Stefan declared the conviction in writing within seven days of the conviction by way of declaration on the conviction on his application form. In making their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy.
5. 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.
6. The relevant parts of the Council's policy 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 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.**

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 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 for example, no longer a ‘fit and proper’ person, 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, the 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 them to complete further training or re-training should the driver’s 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 the Council considers 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 when considering the suitability of a person to hold or retain a licence.

Paragraph 8 – states that any driver who receives a relevant conviction within their licence period will be referred to the Licensing Committee (Hackney Carriage) in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

7. Mr Stefan has been invited to attend this Licensing Committee in order that this review may be considered.

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