



Barry Keel
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Date: 28 June 2011

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

Date: Thursday 7 July 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

LICENSING COMMITTEE (HACKNEY CARRIAGE)

AGENDA

PART I – PUBLIC MEETING

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 9 June 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 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.

7. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - S R HYLAND

(Pages 13 - 18)

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

8. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - M ROWE

(Pages 19 - 22)

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

9. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - V BANTA (Pages 23 - 28)

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

10. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - R C SATURN (Pages 29 - 34)

The Director for Community Services will submit a report on a licensed private hire 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. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - LP (E3 AND E7) (Pages 35 - 42)

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

13. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - DAC (E3 AND E7) (Pages 43 - 50)

The Director for Community Services will submit a report on a licensed hackney carriage driver application for exemption.

14. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - NE (E3 AND E7) (Pages 51 - 56)

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

15. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - IM (E3 AND E7) (Pages 57 - 76)

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

Licensing Committee (Hackney Carriage)**Thursday 9 June 2011****PRESENT:**

Councillor Reynolds, in the Chair.
Councillor Delbridge, Vice Chair.
Councillors Bowie, Churchill, Mrs Dolan, Haydon and Rennie.

Also in attendance: Sharon Day (Lawyer), Mark Small (Taxi and Private Hire Licensing Officer)

The meeting started at 10.00 am and finished at 3.10 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.

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

The Committee noted the appointment of Councillor Reynolds as Chair and Councillor Delbridge as Vice Chair.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

Agreed that the minutes of the meeting held on 21 April 2011 are confirmed as a correct record.

4. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

5. APPEAL CASES

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

6. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - DJEDE

The Committee having –

- (a) heard from the Licensing Officer that Mr Ede had not attended the committee hearing and no notification regarding his absence had been received.

Agreed that a letter be sent to Mr Ede by recorded delivery inviting him to attend the next available hearing and warning him that if he did not attend the committee may here the matter is his absence.

7. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - S G GILES**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Giles;
- (c) taken into account that –
 - (i) Mr Giles was first licensed by the authority in October 2009;
 - (ii) Mr Giles received a motoring conviction on the 3 May 2011 for driving without insurance for which he received a fine of £375 and seven penalty points;
 - (iii) Mr Giles had failed to report the conviction in accordance with the conditions of his private hire driver's licence;
 - (iv) Mr Giles had no other penalty points on his DVLA licence;
 - (v) Mr Giles accepted that he had breached his Private Hire Driver's Licence conditions in not reporting the conviction. He had never had any previous convictions. In relation to the driving without insurance, Mr Giles explained the circumstances to the committee and stated that upon being advised of the mistake he had immediately arranged insurance.

However, members were concerned that –

- (vi) Mr Giles had been driving without insurance as this would have put members of the travelling public at risk however they accepted the explanation given by Mr Giles;
- (vii) Mr Giles had failed to comply with the conditions of his licence.

Agreed that the failure to report convictions did not indicate a willingness to work with the licensing authority and this was a relevant consideration under the Council's licensing objective of prevention of crime and disorder and protection of consumers and therefore Mr Giles' private hire driver's licence would be suspended for a period of two days under the provisions of section 19(1)(b) of the Plymouth City Council Act 1975.

8. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - K L DAMAREL**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Damarell;
- (c) taken into account that –
 - (i) Mr Damarell was first licensed by the authority in July 2006;
 - (ii) Mr Damarell received a fixed penalty notice for speeding on the 1 May 2011 and he received three penalty points;
 - (iii) Mr Damarell notified the Council of this endorsement in accordance with the terms of the Hackney Carriage Byelaws;
 - (iv) Mr Damarell had a total of nine live penalty points on his licence and had been sent warning letters about the standard of his driving in August 2007 and October 2009. He was advised that these letters would be taken into consideration if other instances of driving offences arose and that the receipt of further endorsements may put his licence in jeopardy;
 - (v) Motoring offences are relevant considerations when deciding on a person's suitability to hold or retain a licence under the Council's licensing policy;
 - (vi) Mr Damarell explained that in respect of all three speeding offences he had been doing approximately 10mph over the speed limit. He confirmed he had not had any passengers on board at the time. He considered that he had been unlucky to have been caught speeding in May this year and put this down to having a new cab. If his licence was suspended or revoked this would cause him financial hardship as he had four children and a wife to support.

However, members were concerned that –

- (vi) Mr Damarell had received two warning letters advising him that if he received any further endorsements then this would put his licence in jeopardy however these did not appear to have any affect on his driving standards or made him more cautious;
- (vii) his driving record showed a disregard for the rules of the road and Mr Damarell did not appear to accept that these offences were his fault and in particular that he considered that he was unlucky.

Agreed that Mr Damarell's driving record and attitude to controlling his speed and disregard for the rules of the road raised serious concerns for public safety which is a relevant

consideration under the Council's licensing objective of safety and health of drivers and the public. Therefore Mr Damarell's fitness to drive a licensed vehicle was called into question and his licence would be suspended for a period of three days in accordance with section 19(1)(b) Plymouth City Council Act 1975 as he had paid no regard to the warning letters previously sent to him. In addition Mr Damarell is required to re take his taxi driving standards test within three months to address his standard of driving in accordance with paragraph 10.2 of the Council's licensing policy.

(Councillor Bowie was present for the following items 9, 10, 11, 12, 13 and 14)

9. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - A STEFAN**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Stefan;
- (c) taken into account that –
 - (i) Mr Stefan was first licensed by the authority on the 18 January 2011;
 - (ii) on the 29 March 2011 Mr Stefan received a conviction for using a mobile phone whilst driving. This offence was committed on the 23 January 2011 just five days after being granted his private hire drivers licence;
 - (iii) the vehicle he was driving was a licensed vehicle rented to Mr Stefan at the time of the incident;
 - (iv) Mr Stefan had reported the conviction in accordance with the terms of his licence;
 - (v) motoring offences were relevant considerations when deciding on a person's suitability to hold or retain a licence under the Council's licensing policy;
 - (vi) Mr Stefan told the committee he was unaware that he was not permitted to use his phone whilst driving as he had been a licensed driver for 5/6 years in Romania and it was permitted there. He was now aware of the rules and apologised for the error.

Agreed that having taken into account all of the above no action would be taken against Mr Stefan's licence on this occasion but that a warning letter would be sent to him and would remain on file and be brought to committee's attention if he appeared before them again.

(Councillor Mrs Dolan left the meeting at the end of this item and was not present for items 10, 11, 12, 13 and 14)

10. **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 3 and 7 of Part I Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

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

Agreed that the confidential minutes of the meeting held on 21 April 2011 are confirmed as a correct record.

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from LP that he disputed the content of the report.

Due to LP's dispute over the content within the report the Committee agreed to adjourn the hearing until the next available committee date in order to seek further clarity on the content of the report as they wanted to be sure the information contained in the report was accurate so as to ensure the committee are able to make an informed and accurate decision.

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

The committee having –

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

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, DRC 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.

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

Due to SMH'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.

Subject: Licensed Hackney Carriage Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 7 July 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: 1

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: e.g. Section 17 of the Crime Disorder Act 1998, Community Safety, Health and Safety, 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. Members are made aware that this matter has been adjourned from 9 June 2011, due to Mr Ede's non attendance at that hearing.
9. Mr. Ede has been invited to attend this Licensing Committee in order that this matter may be considered.

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Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 7 July 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/srh
Key Decision: No
Part: 1

Executive Summary:

Mr. Spencer Robert Hyland is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 17 May 2010. His current licence is due to expire on 17 May 2012.

On 18 May 2011 Mr Hyland attended the Licensing desk to renew his Private Hire driver's licence. At this time it was noted that Mr Hyland had received fixed penalty notices on his DVLA licence.

Mr Hyland 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 of the Crime Disorder Act 1998, Community Safety, Health and Safety, 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	AZG/8.6.11/11816	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Spencer Robert Hyland is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 17 May 2010. His current licence is due to expire on 17 May 2012.
2. On 18 May 2011 Mr Hyland attended the Licensing desk to renew his Private Hire driver's licence. At this time it was noted that Mr Hyland had received fixed penalty notices on his DVLA licence.

Details of the fixed penalty endorsements are,

On 8 July 2010 noted by Plymouth Magistrates' Court

Mr Hyland was given a fixed penalty fine and 3 penalty points endorsed on his DVLA licence for Exceeding the Statutory Speed Limit on a Public Road.

On 3 November 2010 noted by Plymouth Magistrates' Court

Mr Hyland was given a fixed penalty fine and 3 penalty points endorsed on his DVLA licence for Exceeding the Statutory Speed Limit on a Public Road.

On 11 December 2010 noted by Plymouth Magistrates' Court

Mr Hyland was given a fixed penalty fine and 3 penalty points endorsed on his DVLA licence for Exceeding the Statutory Speed Limit on a Public Road.

Members are made aware that Mr Hyland was a Licensed Private Hire driver in his first year of being licensed 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 states

*The licensed driver to notify the Council's Licensing Unit **in writing** of any alteration to his declared circumstances or material particulars, within 7 days of such alteration.*

Condition 1 (e) states

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

At the time of writing this report it would seem that Mr. Hyland has breached this condition of licence, as there is no trace of him having complied with this condition in respect of any of the fixed penalty notices.

4. Members are asked to consider whether Mr Hyland is a "fit and proper" person in light of the above motoring endorsements and possible breach of licence condition.
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. In deciding whether Mr. Hyland is a “fit and proper” person, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy.
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.

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. No warning letters were sent to Mr Hyland as the Licensing Office was not informed of any endorsements.

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 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 convictions are relevant offences 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.

8. Mr. Hyland 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: 7 July 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/mr
Key Decision: No
Part: 1

Executive Summary:

Mr. Mark Rowe is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by this Council on the 10 June 1997. His current licence is due to expire on 9 June 2012.

On 9 June 2011, a letter was received from Mr Rowe, informing the Council of a conviction in a Court of Law.

Mr Rowe 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 of the Crime Disorder Act 1998, Community Safety, Health and Safety, 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	AZG/23.6.11/12042	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Mark Rowe is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by this Council on the 10 June 1997. His current licence is due to expire on 9 June 2012.
2. On 9 June 2011, a letter was received from Mr Rowe, informing the Council of a conviction in a Court of Law. A memo of conviction was requested from Plymouth Magistrates' Court on 13 June 2011. A reply was received on 15 June 2011, which revealed the conviction detailed below.

On 7 June 2011 at Plymouth Magistrates' Court

Mr Rowe was convicted of driving a mechanically propelled vehicle, namely a motor vehicle registration number SC02JJE, on 2 May 2011, on a road, namely Crownhill Road at junction with Jubilee Road without due care and attention.

Contrary to S.3 Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Rowe was Fined £100 and ordered to pay £15 Victim Surcharge and £60 costs to the CPS. His DVLA licence was endorsed with 4 penalty points.

Members are made aware that Mr Rowe was a Licensed Hackney Carriage driver, and the vehicle mentioned above was a licensed Hackney carriage at the time the above offence was committed.

3. An inspection of Mr Rowe's DVLA licence reveals no other current endorsements.
4. Members are asked to consider whether Mr Rowe is a "fit and proper" person in light of the above motoring endorsement.

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.

5. In deciding whether Mr. Rowe is a "fit and proper" person, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy.
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 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 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 a motoring conviction is a relevant offence for considering the suitability of a person to retain 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.

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

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 7 July 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:

Key Decision: No

Part: 1

Executive Summary:

Mr Vasile Banta is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 24 June 2008. His current licence is due to expire on 16 May 2012.

On 17 May 2011, when Mr. Banta renewed his Private Hire driver's licence, it was noted that he had received a number of endorsements on his DVLA licence, none of which he had reported in the correct manner.

Mr. Banta 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 of the Crime Disorder Act 1998, Community Safety, Health and Safety, 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

None.

Background papers:

None.

Sign off:

Head of Fin		Head of Leg	AZG/22.6.11/12049	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr Vasile Banta is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 24 June 2008. His current licence is due to expire on 16 May 2012.
2. On 17 May 2011, when Mr. Banta renewed his Private Hire driver's licence, it was noted that he had received a number of endorsements on his DVLA licence, none of which he had reported in the correct manner.

Details of these motoring offences are given below:

2 February 2009 at Plymouth Magistrates Court:

Convicted of Contravening Pedestrian Crossing Regulations with a stationary vehicle.

Mr. Banta was fined £85.

DVLA driving licence endorsed with 3 Penalty Points.

24 May 2009

Mr. Banta was issued with a Fixed Penalty Notice for using a mobile phone whilst driving a motor vehicle.

DVLA licence endorsed with 3 Penalty Points.

10 December 2010:

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

DVLA licence endorsed with 3 Penalty Points

This means that Mr. Banta currently has 9 live penalty points on his DVLA licence.

3. Members are made aware that Mr Banta has declared these motoring offences, during each of the last two renewal applications. However, Officers are concerned that there is no record of Mr Banta having informed the Licensing Office, in writing of any of these motoring offences.
4. A standard condition of licence exists which requires all Private Hire drivers to notify the Council of any convictions received during the licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(e) of the licence requires:

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

It would appear Mr Banta has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the conviction or fixed penalty points endorsed on his DVLA licence.

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. Members are asked to consider whether Mr. Banta is a “fit and proper” person in light of the above motoring offences and breach of licence condition.
7. In deciding whether Mr. Banta 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.**
 - 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.**
 - 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 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

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 receive endorsements on their driving licences.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Committee to revoke any licence where it is satisfied that the licence holder is no longer, for example 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 the 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 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 2 - states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

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

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Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 7 July 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: Mark Small, Taxi Licensing Officer
Contact: Tel: 01752 307984
e-mail: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MS/rcs
Key Decision: No
Part: 1

Executive Summary:

Mr. Robert Catalin Saturn is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 11 June 2009. This licence has been subject to periodic renewal, with the present licence due to expire on the 10 June 2012.

At the last renewal of licence it was noted that Mr Saturn had received an endorsement on his driving licence which had not previously been notified to the Licensing Section

Mr Saturn 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 of the Crime Disorder Act 1998, Community Safety, Health and Safety, 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	AZG/23.6 .11/12041	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Robert Catalin Saturn is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 11 June 2009. This licence has been subject to periodic renewal, with the present licence due to expire on the 10 June 2012.
2. At the last renewal of his Private Hire driver licence, it was noted that his DVLA counterpart contained a motoring conviction endorsement which had not previously been notified to the Licensing Section as required by his conditions of licence. A memorandum of conviction was subsequently obtained from Plymouth Magistrates' court which revealed the information below:

On 22 October 2010 at Plymouth Magistrates' Court.

Convicted of driving without due care and attention on the 14 August 2010, at the junction of Mannamead Road, and Eggbuckland Road, Plymouth. Contrary to S.3 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

He was fined £200 and ordered to pay costs of £60 and a victim surcharge of £15, and his DVLA licence was endorsed with 3 penalty points.

Members are made aware that at the time of this conviction Mr Saturn was licensed as a Private Hire driver the vehicle involved in the offence LD03HRR, is licensed as a private hire vehicle, owned by Mr Saturn at the time of the offence.

3. A standard condition of licence exists which requires all Private Hire drivers to notify the Council of any convictions received during the 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 licence holder to notify the Council's Licensing Section, 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 of such an conviction.

It would appear that Mr Saturn has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the conviction on 22.10.10. There was however, a phone call from him on the 16 August 2010 where he informed the Licensing Section that he had been involved in an accident with a cyclist on the 14 August 2010, this was the same day as the driving without due care offence had been committed.

4. By way of background information, members are advised that Mr Saturn appeared before them on the 10 June 2010 where the status of his Private Hire driver licence was considered after receiving a motoring conviction, and breaching his conditions of licence. On that occasion, his Private Hire driver licence was suspended for a period of two days.
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. Members are asked to consider whether Mr Saturn is a "fit and proper" person in light of the above conviction and breach of condition, and what, if any sanction, needs to be applied to his Private Hire driver licence.
7. In deciding whether Mr Saturn 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.**
 - 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.**
 - 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.

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 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 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.

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 Saturn has completed the Level 2 BTEC award, Transporting Passengers by Taxi and Private Hire.
9. Mr. Saturn has been invited to attend this Licensing Committee in order that this matter may be considered.

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