



Barry Keel
Chief Executive

Plymouth City Council
Civic Centre
Plymouth PL1 2AA

www.plymouth.gov.uk/democracy

Date: 26 July 2011

Please ask for: Ross Johnston, Democratic Support Officer
T: 01752 307990 E: ross.johnston@plymouth.gov.uk

LICENSING COMMITTEE (HACKNEY CARRIAGE)

Date: Thursday 4 August 2011

Time: 10am

Venue: Council House, Plymouth (next to the Civic Centre)

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 - 8)

To confirm the minutes of the meeting held on 7 July 2011.

4. CHAIR'S URGENT BUSINESS

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

5. APPEAL CASES

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

6. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - D CROITORU

(Pages 9 - 14)

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

7. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - D J EDE

(Pages 15 - 20)

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 - V BANTA

(Pages 21 - 26)

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

9. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - M C EDDY (Pages 27 - 32)

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

LUNCH 1PM - 2PM

10. EXEMPT INFORMATION

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

PART II (PRIVATE 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.

11. CONFIDENTIAL MINUTES (E3 AND E7) (Pages 33 - 36)

To confirm the confidential minutes of the meeting held on 7 July 2011.

12. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - MA (E3 AND E7) (Pages 37 - 42)

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

13. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - PJC (E3 AND E7) (Pages 43 - 48)

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

14. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - SPW (E3 AND E7) (Pages 49 - 52)

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

This page is intentionally left blank

Licensing Committee (Hackney Carriage)

Thursday 7 July 2011

PRESENT:

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

Also in attendance: Andrea Gilbert (Lawyer), George Curness (Assistant Licensing Officer).

The meeting started at 10.00 am and finished at 4.15 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.

15. **DECLARATIONS OF INTEREST**

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

16. **MINUTES**

Agreed that the minutes of the meeting held on 9 June 2011 are confirmed as a correct record.

17. **CHAIR'S URGENT BUSINESS**

George Curness, Assistant Licensing Officer informed the Committee that Councillor Reynolds, Chair had signed a delegated decision for the grant of a private hire operator's licence.

18. **APPEAL CASES**

The committee was informed there were two pending appeal cases. One against the revocation of a Hackney Carriage driver's licence to be heard by the Magistrates Court on 12 July 2011 and one against the refusal to grant a Private Hire Driver's Licence to be heard by the Magistrates Court on 18 July 2011.

19. **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 for a second time and no notification regarding his absence had been provided.

- (b) heard that Licensing Officers hand delivered a letter requesting Mr Ede's attendance at today's hearing.

Members agreed that they were unable to make a proportionate and informed decision without Mr Ede's presence at Committee to answer questions they wished to put to him.

Members are concerned for public safety and have therefore elected to suspend Mr Ede's licence until he contacts the Licensing Department to confirm his attendance at the Committee which is due to be heard in 4 August 2011. Once confirmation is received the suspension will be lifted. If Mr Ede does not attend at the 4 August 2011 Committee hearing, all possible sanctions against his licence will be considered.

(Mr Ede was advised to attend the Committee at 10am but arrived at 4.00pm. He was advised of the Members' decision and Mr Ede signed to say that he would attend at the Committee on 4 August 2011 and the suspension was duly lifted).

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Hyland;
- (c) heard details of Mr Hyland's endorsements for speeding;
- (d) taken into account that Mr Hyland –
- gave open and honest answers to questions put to him by members;
 - had now completed his VRQ in Transporting Passengers by Taxi and Private Hire;
 - did not have any passengers in his taxi when he committed any of the offences;
 - stated that a new system had been implemented by his employer which would alleviate time pressures;
 - advised that he was not speeding excessively.

However, Members were concerned that -

- (e) having only been granted a provisional private hire driver's licence in May 2010, he then proceeded to speed on 8 July 2010, 3 November 2010 and 11 December 2010;

- (f) all three of these offences were committed during the probationary period of his licence;
- (g) he accrued a total of nine penalty points in five months;
- (h) these offences were committed while he was acting in his capacity as a taxi driver;
- (i) he breached the conditions of his private hire driver's licence by not informing the Licensing Department of any of these offences in writing within the required seven days.

The Committee agreed that -

Mr Hyland's attitude towards controlling his speed and apparent disregard for the rules of the road as illustrated by the nine penalty points which he has accrued in only five months raises 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.

The Hackney Carriage and Private Hire Driver's Licensing Policy states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

There is no record of Mr Hyland notifying the Licensing Department of any of these fixed penalty fines under the terms and conditions of his private hire driver's licence.

Mr Hyland's fitness to drive a private hire vehicle has been called into question and members have elected to suspend his licence for two days in respect of the speeding offences and a further three days in respect of the failure to report any of the endorsements.

In addition, Members require Mr Hyland to re-sit the driving taxi standards test within three months to address his standard of driving in accordance with paragraph 10.2 of Plymouth City Council's licensing policy.

Failure to provide the licensing department with a newly passed driving certificate by 6 October 2011 would result in Mr Hyland having to appear before this Committee and all sanctions against his licence would be considered at that time.

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Rowe;
- (c) heard details of Mr Rowe's conviction for driving a vehicle without due care and attention;
- (d) heard from Mr Rowe's representative Mr Hamilton;

- (e) taken into account that –
- he was not carrying any passengers when the offences were committed;
 - he complied with the byelaws attached to his Hackney Carriage licence by notifying the Licensing Department of his conviction within seven days;
 - this was his first offence in fourteen years of driving a Hackney Carriage vehicle.

The decision of the Committee today is that -

As a professional taxi driver, Mr Rowe's conviction for driving without due care and attention raises concerns in respect of public safety and is a relevant consideration under the Council's licensing objective of safety and health of drivers and the public.

The Hackney Carriage and Private Hire Drivers Licensing Policy states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

However, Members have agreed that they will take no further action today.

22. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - V BANTA**

The Committee having –

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

Agreed that a letter be sent to Mr Banta by recorded delivery inviting him to attend the next available hearing which contained a warning that if he did not attend the committee may hear the matter in his absence and all possible sanctions against his licence considered at that time.

23. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - R C SATURN**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Saturn;
- (c) heard details of Mr Saturn's conviction for driving a vehicle without due care and attention.;

- (d) taken into account that Mr Saturn –
- did not have a passenger in his taxi when the offence was committed;
 - did telephone the Licensing Office to report that he had been involved in an accident in August 2010;
 - stated he now completely understood his obligations to notify the Licensing Department in writing of any offences within seven days.

However, Members were concerned that –

Mr Saturn was convicted of driving without due care and attention in August 2010 when he became involved in an accident with a cyclist.

In June 2010 he appeared before the Committee in respect of another driving offence and failure to report a conviction for which his licence was suspended for a total of two days.

Despite having been before the Committee for the same breach of licence convictions on an earlier occasion, he did not comply with the terms and conditions of his private hire driver's licence by notifying the Licensing Department of his conviction in writing within seven days after committing the second offence.

The decision of the Committee today is therefore that –

As a professional taxi driver, Mr Saturn's conviction for driving without due care and attention raises concerns in respect of public safety. This is a relevant consideration under the Council's licensing objective of safety and health of drivers and the public.

His failure to contact the Licensing Department to notify them in the correct manner of his driving offences on two separate occasions indicates a lack of willingness to engage with the Licensing Department and a disregard for the terms and conditions of his licence.

The Hackney Carriage and Private Hire Drivers Licensing Policy states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

Members agreed that it is a proportionate decision to suspend his licence for a total of three days. This represents two days for not reporting the conviction to Plymouth City Council and an additional day because this is the second time he has failed to notify of an offence.

(Councillor Delbridge left the meeting at the end of this item and was not present for items 25, 26, 27 and 28)

24. **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.

25. **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.

Agreed that in light of all of that was said LP was not considered to be a fit and proper person to hold a private hire driver's licence.

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

26. **LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - DAC (E3 AND E7)**

The committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from RH;
- (iii) considered the assessment of RH's condition made by his General Practitioner.

Members have considered RH's application for a medical exemption certificate pursuant to paragraph 23.1 of Plymouth City Councils Hackney Carriage and Private Hire Vehicle Licensing Policy.

Agreed that the application for a lifetime medical exemption is granted.

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

The committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from NE.

Members agreed to give NE a warning on this occasion, and that warning to lie on his file in the event of any future attendance at this Committee.

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

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

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

This page is intentionally left blank

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 4 August 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: George Curness - Taxi Licensing Officer
Contact: Tel: 01752 307984
e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/dc
Key Decision: No
Part: 1

Executive Summary:

Mr. Dumitru Croitoru is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 29 July 2009. At the time of writing this report, this current licence is due to expire on the 28 July 2011.

On 6 July 2011 a letter was received from Mr Croitoru, which had a notice from Plymouth Magistrates' Court attached, giving details of an endorsement for a motoring conviction.

Mr Croitoru 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/12321/20.7. II | Head of HR | | Head of AM | | Head of IT | | Head of Strat. Procur. | |
| Originating CMF Member | | | | | | | | | | | |

Report

1. Mr. Dumitru Croitoru is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 29 July 2009. At the time of writing this report, this current licence is due to expire on the 28 July 2011.
2. On 6 July 2011 a letter was received from Mr Croitoru, which had a notice from Plymouth Magistrates' Court attached, giving details of an endorsement for a motoring conviction 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 3 June 2011 at Plymouth Magistrates' Court.

Convicted of driving a mechanically propelled vehicle, namely a motor vehicle, registration number FG05TKK, on a road, namely Paradise Road, without due care and attention on 20 April 2011. Contrary to S.3 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Croitoru was fined £150 and ordered to pay costs of £60 and a victim surcharge of £15, and his DVLA licence was endorsed with 5 penalty points.

Mr Croitoru has 5 current penalty points on his DVLA counterpart.

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

Mr Croitoru has breached this condition of licence, as the letter sent by him was received on 6 July 2011, 32 days after the conviction. The letter, however, does state, "I'm sorry but I was unaware that I had to inform you immediately of any endorsements that has been served to me".

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 Croitoru is a “fit and proper” person in light of the above conviction and apparent breach of condition, and what, if any sanction, needs to be applied to his Private Hire driver licence.
7. In deciding whether Mr Croitoru 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 Croitoru has yet to complete the Level 2 Vocationally Related Qualification (VRQ) in Transporting Passengers by Taxi and Private Hire or an equivalent qualification.
9. Mr. Croitoru has been invited to attend this Licensing Committee in order that this matter may be considered.

This page is intentionally left blank

Subject: Licensed Hackney Carriage Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 4 August 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 Wolveley 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.

This page is intentionally left blank

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 4 August 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
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.

This page is intentionally left blank

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 4 August 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: James Hirst, Licensing Officer
Contact: Tel: 01752 304744
e-mail james.hirst@plymouth.gov.uk

Ref:

Key Decision: No

Part: 1

Executive Summary:

Mr Michael Charles Eddy is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 6 February 2008. His current licence is due to expire on 5 February 2012.

On 22 June 2011, an E-Mail was received from Mr. Eddy informing the Licensing Department that he had been convicted of a motoring offence on the 21 June 2011.

Mr. Eddy 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/12322/15.7.11 | Head of HR | | Head of AM | | Head of IT | | Head of Strat. Procur. | |
| Originating CMF Member | | | | | | | | | | | |

Report

1. Mr Michael Charles Eddy is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 6 February 2008. His current licence is due to expire on 5 February 2012.
2. On 22 June 2011, an E-Mail was received from Mr. Eddy informing the Licensing Department that he had been convicted of a motoring offence on the 21 June 2011. A memo of conviction was requested from Plymouth Magistrates' Court on 24 June 2011, and a reply was received on 7 July 2011. The details of the motoring conviction are given below:

On 21 June 2011 at Plymouth Magistrates Court:

Mr Eddy was convicted of driving a mechanically propelled vehicle, namely a motor vehicle registration number SE57 BRX, on 7 November 2010, on a road, namely the junction of William Prance Road with Tavistock 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 Eddy was fined £300, ordered to pay £15 victim surcharge and costs of £620 to the Crown Prosecution Service.

Mr Eddy had his DVLA driving licence endorsed with 5 penalty points.

By way of background information, Members are advised that Mr Eddy has appeared before them previously on the 19 March 2009. At that time, Members considered that Mr Eddy had received a motoring conviction in respect of speeding, and breaching his conditions of licence. On that occasion, his Private Hire driver licence was suspended for a period of two days.

At the time of writing this report Mr Eddy currently has 11 live penalty points endorsed on his DVLA driving licence. Members are also made aware that Mr Eddy was a Licensed Private Hire Licence holder at the time the above offences were committed.

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

“any other reasonable cause”.

4. Members are asked to consider whether Mr Eddy remains a “fit and proper” person in light of the above motoring conviction and what, if any sanction, needs to be applied to his Private Hire drivers licence.
5. In deciding whether Mr Eddy is a “fit and proper” person, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. The relevant parts of which are detailed below:

General Policy

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

The Licensing objectives are as follows:

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

Chapter 2. – Conditions of Licence

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

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

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

Paragraph 18.5 requires the Committee to have regard to the following when considering previous convictions:

- Whether they are spent or unspent.
- The nature of the offence
- The age of the offence
- The apparent seriousness as gauged by the penalty
- The relevance of the convictions in relation to the promotion of the Licensing Objectives

Chapter 4 – Enforcement Policy

Paragraph 8.1 - allows the Council to revoke any licence where it is satisfied that the licence holder is no longer, for example, fit and proper or a breach of a condition of licence has been established.

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

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

Guidance on the Relevance of Convictions

Paragraph 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 includes 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.

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

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank