



**Barry Keel**  
Chief Executive

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Date: 22-11-2011

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## **LICENSING COMMITTEE (HACKNEY CARRIAGE)**

**Date:** Thursday 1 December 2011

**Time:** 10m

**Venue:** Council House, next to the Civic Centre

**Members:**

Councillor Reynolds, Chair

Councillor Delbridge, Vice Chair

Councillors Bowie, Churchill, Haydon, Mrs Nicholson 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 meetings held on 3 November and 17 November 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. HACKNEY CARRIAGE AND PRIVATE HIRE FEES FOR 2011/12 (Pages 7 - 14)

The Director for Community Services will submit a report on the Hackney Carriage and Private Hire Fees for 2011/12.

#### 7. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - V BANTA (Pages 15 - 18)

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

#### 8. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - W A DUNN (Pages 19 - 24)

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

## **9. 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 they involve the likely disclosure of exempt information as defined in paragraphs 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.

#### **10. CONFIDENTIAL MINUTES (E3 AND E7) (Pages 25 - 30)**

To confirm the confidential minutes of the meeting held on 3 November 2011.

#### **11. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - BJB (E3 AND E7) (Pages 31 - 36)**

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

### **LUNCH 1PM - 2PM**

#### **12. LICENSED HACKNEY CARRIAGE DRIVER - APPLICATION FOR EXEMPTION - GCP (E3 AND E7) (Pages 37 - 44)**

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

#### **13. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - KSJM (E3 AND E7) (Pages 45 - 50)**

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

#### **14. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENSE STATUS - IAM (E3 AND E7) (Pages 51 - 56)**

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

**15. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - NJB (E3 AND E7) (Pages 57 - 62)**

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

**16. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - KJ (E3 AND E7) (Pages 63 - 68)**

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

## Licensing Committee (Hackney Carriage)

Thursday 3 November 2011

### PRESENT:

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

The meeting started at 10am and finished at 4.50 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.*

### 70. DECLARATIONS OF INTEREST

The following declarations were made –

Name	Subject	Reason	Interest
Councillor Churchill	Minute 80 Application for the Grant of a Hackney Carriage Driver's Licence	Knew the applicant	Personal and prejudicial
Councillor Rennie	Minute 80 – Application for the Grant of a Hackney Carriage Driver's Licence	Knew the applicant from the security trade	Personal
Councillor Reynolds	Minute 76 – Review of Hackney Carriage Driver's Licence Status	Had witnessed one of the incidents referred to in the report	Appearance of bias

### 71. MINUTES

Agreed that the minutes of the meeting held on 24 October 2011 are confirmed as a correct record.

Councillor Rennie raised concerns regarding a record of absence being marked against those councillors who had been unable to attend the re-scheduled meeting on 24 October 2011 (the councillors concerned had been able to attend the original meeting).

72. **CHAIR'S URGENT BUSINESS**

The Chair confirmed that an additional meeting of the Licensing Committee Hackney Carriage would be held on 17 November 2011 at 10am. The meeting had been scheduled to consider the objections to the public consultation regarding the Hackney Carriage Tariffs.

(In accordance with Section 100(B)(4)(b) of the Local Government Act, 1972, the Chair brought forward the above item for urgent consideration because of the need to advise Members).

73. **APPEAL CASES**

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

74. **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 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended from the Freedom of Information Act 2000.

**Order of Business**

The order of business on the agenda was amended as set out below in the minutes.

75. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - NAH**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from NAH;
- (c) heard from NAH's current employer.

Agreed that having taken into account all the information, NAH is no longer considered to be a fit and proper person, as his driving record over such a long period of time raised concerns for public safety and therefore his private hire driver's licence would be revoked under Section 19(1)(b) of the Plymouth City Council Act 1975.

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

76. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - DCS**

The committee having –

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

- (b) heard from DCS.

Agreed that having taken into account all of the information, a warning will be placed on DCS's file and this would be brought to members' attention should he appear before them in the future.

(Councillor Reynolds declared an interest in this matter which he considered raised an appearance of bias and left the room).

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

77. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - APG**

The committee having –

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

Agreed that APG's licence is suspended until such time as he produces a medical certificate as required by his conditions of licence, in accordance with Section 19(1)(b) of the Plymouth City Council Act 1975.

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

78. **APPLICATION FOR THE GRANT OF A RESTRICTED PRIVATE HIRE DRIVER'S LICENCE - SH**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from SH;
- (c) heard from SH's current employer.

Agreed that the application for a restricted private hire driver's licence is granted, subject to the condition that the licence is restricted to airport/sea port transfers and school transport under a permit issued by Plymouth City Council and that SH is not required to take the driving test.

79. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - ASH**

The committee having –

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

- (c) heard from ASH's representative.

Agreed that the application for a hackney carriage driver's licence is granted subject to the satisfactory completion of the three pre requisites, namely the medical examination, the driving test and the knowledge of Plymouth test and to complete the VRQ within the first 12 months of his licence.

(Councillor Churchill declared a personal and prejudicial interest in this matter and left the room).

(Councillor Rennie declared a personal interest in this item).

80. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - LH**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from LH;
- (c) heard from his father;
- (d) heard from his legal representative.

Agreed that the application for a hackney carriage driver's licence is granted subject to the satisfactory completion of the three pre requisites, namely the medical examination, the driving test and the knowledge of Plymouth and to complete the VRQ within the first 12 months of being granted the licence; and to produce a medical certificate confirming that he is fit to medical standard group II upon renewal of his licence.

81. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - MR**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from the Licensing Officer on MR's behalf.

Agreed that no further action is taken as a copy of the medical certificate had been produced.



## Licensing Committee (Hackney Carriage)

Thursday 17 November 2011

### PRESENT:

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

Apologies for absence: None.

Also in attendance: Ann Gillbanks (Senior Lawyer) and Andy Netherton (Manager Health, Safety and Licensing).

The meeting started at 10 am and finished at 10.15 am.

*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.*

### 82. **DECLARATIONS OF INTEREST**

Councillor Delbridge declared a personal interest as his sister's husband was a private hire driver.

### 83. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

### 84. **PROPOSAL FOR A HACKNEY CARRIAGE TARIFF INCREASE**

The Director for Community Services submitted a report on the proposal for a hackney carriage tariff increase, which outlined the following –

- (a) negotiations had been held with the Plymouth Licensed Taxi Association (PLTA) concerning the proposal put forward by the Association to increase the hackney carriage tariff;
- (b) at its meeting held on 2 September 2011, the committee agreed a proposed tariff table which was then advertised through a public notice (in accordance with the Plymouth City Council Act, 1975);
- (c) three objections had been received regarding the proposed tariff changes, which related to –
  - the need for a fare increase;

- the implications of the tariff increase on the ability of hackney carriage drivers to compete with private hire companies;
  - the need for extras and the potential for the mis-use of extras leading to overcharging;
- (d) the tariffs including the extras set by the Council were the maximum fares that could be charged; drivers were able to request lower amounts and negotiate fares for travel outside of the City boundaries;
- (e) extras could be added at the discretion of the driver which could lead to mis-use; however very few complaints were received regarding charging for extras;
- (f) the tariff table had to be displayed within all hackney carriage vehicles to allow passengers to calculate the approximate cost of the journey;
- (g) that the representations received represent less than one percent of the number of hackney carriage drivers.

The following responses were provided to questions raised by the committee –

- (h) following the proposal put forward at the Plymouth Licensed Taxi Association's annual general meeting on 7 June 2011, the proposal had been formulated and circulated to the whole of the trade; the proposal had been advertised under the statutory requirements and independent drivers would have been able to access this information;
- (i) in the league table of hackney carriage tariffs for local authorities, Plymouth City Council was 214 out of 384 (at two miles);
- (j) Plymouth City Council had a policy of providing a fleet which was 100 per cent wheelchair accessible which made the running cost of the fleet higher.

The committee agreed that having considered the representations received, Members considered that it is proportionate to increase the fare as outlined in appendix I of the report and to implement the fare increase on 1 December 2011.

85. **EXEMPT INFORMATION**

There were no exempt items.

**CITY OF PLYMOUTH**

**Subject:** Hackney Carriage and Private Hire Fees for 2011/12

**Committee:** Licensing Committee (Hackney Carriage)

**Date:** 1 December 2011

**Cabinet Member:** Councillor Jordan

**CMT Member:** Director for Community Services

**Author:** Andy Netherton, Manager Health, Safety and Licensing

**Contact:** Tel 01752 304742  
Email: andy.netherton@plymouth.gov.uk

**Ref:** PPS/AN

**Part:** 1

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**Executive Summary:**

Plymouth City Council regulates the Hackney Carriage and Private Hire industry through the licensing framework set out in the Plymouth City Council Act 1975. Fees for licences should be set at a figure which will recover the full cost of the licensing administration including enforcement. The budgets for licensing are operated as two trading accounts, one for Private Hire and the other for Hackney Carriage.

A review of the current fees has been undertaken to balance the two trading accounts. A new fees structure has been constructed following consultation and legal advice. The recommended fees structure has been designed to achieve: -

- An accurate reflection, in the fee, of the true cost of the administration of different licence types.
- Bringing the accounts into balance by 2013/14

A report was brought before the Committee on the 2 September 2011 where approval was given for the advertisement of the proposed fees and a period for responses was set at 28 days. This was duly undertaken and two responses were submitted objecting to the proposed fee levels.

This subsequent report details the objections and asks the Committee to consider them and approve fees levels for the Hackney Carriage and Private Hire trade.

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**Corporate Plan 2011 – 2014:**

This report links to the delivery of the corporate improvement priorities, in particular:

- Delivering sustainable growth – The trades employ a significant number of people and support local businesses through their activity. Hackney carriages and private hire form part of the successful public transport system and visitor experience.
- Providing more and better culture and leisure activities – Visitors views of the City may be influenced by a well presented vehicle or driver. These vehicles form an essential part of the public transport system.

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

The Hackney Carriage and Private Hire accounts have been subject to periods of both excessive surplus and deficit over the last 10 years. This fee report is the third in a series of reviews designed to ensure that both accounts come into an acceptable level of balance by 2013/14.

The fee levels in this report have been set to continue in achieving this aim. Future annual reviews will ensure that any changes in projected income or expenditure are identified and appropriate action taken to adjust fee levels.

Both accounts are separate trading accounts and should have no affect on general fund accounts.

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**Other Implications: e.g. Section 17 Crime Disorder Act, 1998, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Lower income groups are a significant user of the hackney carriage and private hire trade. Increases in fee levels have an influence on fare levels. Fee levels should be reasonable so as not to adversely affect fares charged.

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**Recommendations and Reasons for recommended action:**

The Committee resolve to -

Approve the new fee structure as set out in the Fees Table (Appendix 1) which is to commence on the 1 January 2012.

**Reason**

The Hackney Carriage taxi reserve account is in deficit by £129,096. The Private Hire taxi reserve account is in surplus by £184,942. Balancing the accounts by 2013/14 enables the Hackney Carriage trade to absorb the costs of the fees increase over a medium term period whilst addressing the deficit. A shorter period would produce much larger initial fee increase. Increasing the period would reduce the initial fee increases but would extend the period that the account deficit had to be supported by the council.

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**Alternative options considered and reasons for recommended action:**

Consideration was given to a single increase in fees. This was rejected as the single step increase would have produced a larger increase in fee for the trade to absorb in one year. Consideration was given to a recommendation that the accounts be brought into balance over a longer period. This was rejected because the council would not continue to support the deficit over a longer period.

Private hire fees could be reduced to account for the surplus in this account. It is possible that increased central support costs will be allocated to the accounts and reduce the surplus in forthcoming years.

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**Background papers:**

None.

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**Sign off:**

Fin	SA/CoS F ED1112 005	Le g	<b>AG/132</b> <b>59/</b> 9.11.11	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

## **1.0 Background Information**

Plymouth City Council regulates the Hackney Carriage and Private Hire industry through the licensing framework set out in the Plymouth City Council Act 1975. Fees for licences should be set at a figure that will recover the cost of the licensing administration including enforcement. The budgets for Hackney Carriage and Private Hire licensing are operated as two separate trading accounts.

- 1.1 A proposed new set of fees were brought before the Committee on the 2 September 2011. Approval was given for these fees to be advertised in accordance with the process required under the Plymouth City Council Act 1975 and a period of 28 days was provided for responses. The advert was reprinted on the 14 October 2011 due to an omission in the original public notice.
- 1.2 Two objections were received, which can be found in Appendix 2. The matters raised are discussed below.
- 1.3 Difference in fee levels – Hackney carriage fees are higher than equivalent fees for private hire due to the historical deficit which had accumulated in the hackney carriage trade account. Hackney carriage licence fees therefore reflect the additional costs in recovering the deficit. Once the account comes into balance the difference in fee levels will be reduced.
- 1.4 Cheque Refunds - The Council wishes to reduce the number of cheques issued due to the additional costs associated with this type of payment. The cost differential of £17 has been estimated by the Finance Department to be a reasonable reflection on the additional work required to deal with cheque refunds. These costs should be borne by those incurring the extra work. The cost differential between cheque and BACs refunds has been in place for 2 years.
- 1.5 The transfer fee between the trades reflects the costs of the administering the transfer of a licence between the two trades, including the various transfer of money between the two trade accounts. This ensures that fees are allocated in the correct proportion to the correct trade accounts.

## **2.0 Conclusion**

- 2.1 The proposed fees were advertised in accordance with the statutory requirements where two objections were received. Members will be required to consider the objections and decide whether to amend the fees in line with objections or to continue with the new fees as proposed in Appendix 1.
- 2.2 The impact of fee increases will be reviewed annually and any necessary alterations will be approved as set out in the Council's scheme of delegation.

## **3.0 Recommendations and Reasons for recommended action:**

- 3.1 The Committee resolve to –

1. Approve the new fee structure as set out in the Fees Table (Appendix 1) which is to commence on the 1 January 2012.

- 3.2 Reason

The Hackney Carriage taxi reserve account is in deficit by £129,096. The Private Hire taxi reserve account is in surplus by £184,942. Balancing the accounts by 2013/14 enables the Hackney Carriage trade to absorb the costs of the fees increase over a medium term period whilst addressing the deficit. A shorter period would produce much larger initial fee increase. Increasing the period would reduce the initial fee increases but would extend the period that the account deficit had to be supported by the council.

**APPENDIX I****Proposed Fees for Hackney Carriage and Private Hire Licences 2012****Hackney Carriage Fees**

<b>Licence</b>	<b>Proposed Fee</b>
Vehicle Licence	£318.75
1 Year Drivers Licence	£164.10
3 Year Drivers Licence	£354.90
Duplicate Licence	£5.00
Vehicle Transfer	£27.00
Drivers Test	£83.00
Competency Test	£60.00
Driver Application Fee	£16.00
Replacement ID Card Fee	£10.00
Replacement Plate	£11.00
DVLA Licence Check	£18.00
Transfer from HC to PH/ Admin fee for refunds by cheque	£37.00
Transfer from HC to PH/ Admin fee for refunds by electronic transfer	£20.00
Temporary licence for replacement vehicle	£39.00
CRB Check	£26.00

**Private Hire Fees**

<b>Licence</b>	<b>Proposed Fee</b>
Vehicle Licence	£120.00
1 Year Drivers Licence	£91.60
3 Year Drivers Licence	£185.00
Duplicate Licence	£5.00
Vehicle Transfer	£27.00
Drivers Test	£83.00
Competency Test	£60.00
Driver Application Fee	£16.00
Operator Application Fee	£140.00
Operator Fee (per driver)	£4.00
Replacement ID Card Fee	£10.00
Replacement Plate / Door Sticker	£11.00
DVLA Licence Check	£18.00
Transfer from PH to HC/ Admin Fee for refunds by cheque	£37.00
Transfer from PH to HC/ Admin fee for refunds by electronic transfer	£20.00
Temporary licence for replacement vehicle	£39.00
CRB Check	£26.00



## APPENDIX 2

Objection Number	Comments
1	<p>I wish to lodge an <b>objection</b> to the council's intention to increase the fees to such a high level.</p> <p>I also very strongly object to the vast differences between the Hackney trade and Private Hire fees, in fact in my opinion it is a very strong case of discrimination.</p> <p>For example the difference H/C P/H  Vehicle Licence  One years drivers Licence  Three year drivers Licence</p> <p>As a Hackney carriage driver of some Thirty four years I find this very difficult to comprehend, as also I'm sure all of my work colleagues are of the same opinion.</p>
2	<p>I am (a) disappointed at the proposed continuation of an administrative charge for refunds payable on transfer from HC to PH (sic);  (b) even more disappointed at the proposed continuation of a £17 surcharge/discount between cheques and electronic transfer refund payments. Surely a refund is a refund is a refund ;  (c) unable to grasp the circumstances in which transfer from PH to HC (sic) would result in a refund;  (d) puzzled why the "above Act" - presumably the Plymouth City Council Act 1975 - is not stated (or. come to that, the notice is not dated).</p>

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**CITY OF PLYMOUTH**

**Subject:** Licensed Private Hire Driver – Review of Licence Status  
**Committee** Licensing Committee (Hackney Carriage)  
**Date:** 1 December 2011  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director for Community Services  
**Author:** James Hirst – Licensing Officer (Taxis)  
**Contact:** Tel 01752 304744  
Email James.hirst@plymouth.gov.uk

**Ref:**

**Key Decision:** No

**Part:** 1

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**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 4 August 2011, Mr. Banta attended a Licensing Committee hearing where he received a 6 day suspension and was directed to produce his VRQ qualification certificate within 7 days. Mr. Banta has served his 6 day suspension as directed but has failed to produce the VQR certificate to the Licensing Department within the required time.

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

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**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

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

Not applicable.

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**Other Implications: e.g. Section 17 Crime Disorder Act 1998, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

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.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

Report to Licensing Committee (Hackney Carriage) 4 August 2011  
ERS/LIC/JH/sem and minute number 36 of that Committee.

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**Sign off:**

Fin		Leg	AZG /132 30/4. 11.1 1	HR		Corp Prop		IT		Strat Proc	
Originating SMT 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 4 August 2011, Mr. Banta attended a Licensing Committee where Members considered a report stating that Mr Banta had committed and not reported three motoring offences to the Licensing Office in the correct manner. At this hearing Mr. Banta received a 6 day suspension and was directed to produce his VRQ qualification certificate within 7 days.
3. Members are made aware that during the Committee Hearing, Mr. Banta was asked by Members whether he had completed a VRQ qualification in "Transporting Passengers by Taxi and Private Hire" or equivalent, to which Mr. Banta replied "yes".
4. A letter was sent to Mr. Banta on the 5 August 2011, informing him of the decision made by Members of the Licensing Committee stating that his Private Hire drivers licence would be suspended for 6 days and he would also have to produce his VRQ certificate with 7 days. This letter also highlighted the date that he had to surrender his licence to the Council should he not wish to appeal the Committee decision.
5. On the 15 August 2011, Mr. Banta came to the licensing desk, surrendered his Private Hire drivers badge and commenced his 6 day suspension. He informed a Licensing Officer that he was unable to produce a VRQ certificate as directed as he had not gained this qualification.
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. Members are asked to consider whether Mr. Banta is a "fit and proper" person in light of the above circumstances and incorrect information given to them by Mr. Banta
8. Mr. Banta has been invited to attend this Licensing Committee in order that this matter may be considered.

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**CITY OF PLYMOUTH**

**Subject:** Licensed Private Hire Driver – Review of Licence Status  
**Committee** Licensing Committee (Hackney Carriage)  
**Date:** 1 December 2011  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director for Community Services  
**Author:** James Hirst – Licensing Officer (Taxis)  
**Contact:** Tel 01752 304744  
Email: [james.hirst@plymouth.gov.uk](mailto:james.hirst@plymouth.gov.uk)  
**Ref:** ERS/LIC/JH/wad  
**Key Decision:** No  
**Part:** 1

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**Executive Summary:**

Mrs Wendy Ann Dunn is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on the 3 November 2004. Her current licence is due to expire on 20 November 2011.

On the 24 October 2011 Mrs Dunn was prosecuted by Plymouth City Council for smoking offences against the Health Act 2006. Officers are seeking a review of the status of the driver licence held by Mrs Dunn as they are concerned with her conduct towards her Conditions of Licence and repeated offending.

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

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**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.

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**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 and Equality, Diversity and Community Cohesion:**

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.

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**Recommendations and Reasons for recommended action:**

Members of the Licensing Committee consider this report.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

Report to Licensing Committee (Hackney Carriage) 07 August 2008  
ERS/LIC/MS/wad and minute number 46 of that Committee.

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**Sign off:**

Fin		Leg	AZG/13229 /4.11.11	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											



**Report**

1. Mrs Wendy Ann Dunn is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on the 03 November 2004. Her current licence is due to expire on 20 November 2011.
2. On the 24 October 2011 Mrs Dunn was prosecuted by Plymouth City Council for smoking offences against the Health Act 2006.

Details of this conviction are given below:

**On 24 October 2011 at Plymouth Magistrates Court:**

Mrs Dunn was convicted of an offence of Smoking in a Smokefree place (a licensed Private Hire vehicle) contrary to S.7(2) of the Health Act 2006.

Mrs Dunn failed to attend Plymouth Magistrates Court and an application to prove the case in her absence was granted.

Fined £100 and ordered to pay £100 costs with a £15 victim surcharge.

3. The circumstances leading up to this conviction are given below:

On 6 April 2011, Mrs Dunn was issued with a verbal warning with regards to smoking in a licensed vehicle, that being a red Ford Mondeo with plate number 922 and registration LR55 RGY. Officers were concerned with the amount of, what was believed to be, cigarette ash present inside the vehicle. The verbal warning was recorded in the officers pocket note book.

On 4 May 2011, Mrs Dunn was witnessed by a licensing officer to be smoking a lit cigarette whilst driving up Royal Parade in a licensed Private Hire vehicle, that being a red Ford Mondeo with plate number 922.

On 06 May 2011, Mrs Dunn attended a pre-arranged appointment at the licensing desk. Mrs Dunn was cautioned and was offered the option of a fixed penalty notice to discharge the offence. Mrs Dunn accepted and a fixed penalty notice was issued.

On 23 May 2011, a reminder letter was sent to Mrs Dunn advising that she had failed to discharge the fixed penalty notice within the first 15 days. The letter informed Mrs Dunn that the opportunity to pay the fixed penalty notice at the reduced rate had now expired and the full amount was due on the 03 June 2011.

On 31 May 2011, a telephone call was made to the operator of Mrs Dunn. The telephone call was not related to the fixed penalty notice issued to Mrs Dunn however, Mrs Dunn was the duty controller at the time the call was made.

The officer took the opportunity to remind her that the fixed penalty notice was still outstanding and was informed of the consequences of not discharging the Fixed Penalty Notice.

On the 6 June 2011, Mrs Dunn had failed to discharge the fixed penalty notice as no payment had been received. Officers compiled a prosecution file which resulted in the case being dealt with on the 24 October 2011 at Plymouth Magistrates Court.

4. The following background information regarding Mrs Dunn has also been included as Officers consider it to be relevant in respect to this case.

On the 07 August 2008, Mrs Dunn appeared before Members of the Licensing Committee in respect to the following matters:

**On 23 April 2008 at East Cornwall Magistrates Court:**

Convicted for an offence of plying for hire without having a licence permitting the same, contrary to Section 45 of the Town Police Clauses Act 1847 and for not having motor vehicle insurance for that use of vehicle.

Fined a total of £700 (which was reduced from £850 due to a guilty plea), ordered to pay costs of £873.01 and pay a victim surcharge of £15.

DVLA driving licence was also endorsed with 8 penalty points.

5. At Court, Mrs Dunn pleaded and was granted exceptional hardship, to retain her DVLA licence. If the Magistrates had not been minded to grant exceptional hardship (which was granted given her personal circumstances) she would have been facing a period of driving disqualification under the totting up procedure due to 6 points previously endorsed on her licence.

Mrs Dunn was called to attend before Members on 7 August 2008. in respect of this offence Members, having considered the above conviction, decided to suspend Mrs Dunn for a period of 2 days.

6. An inspection of the DVLA licence held by Mrs Dunn reveals no current endorsements
7. In the last 12 months, Mrs Dunn has received 3 Vehicle Prohibition Notices due to defective tyres, the circumstances are as follows:

**On 12 March 2011**, during a routine vehicle inspection while on foot patrol in Albert Rd at 15.50hrs, Licensing Officers identified Mrs Dunn's vehicle, plate number 922 and registration LR55 RGY, to have a screw in the rear nearside tyre. Officers issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defect had been rectified.

**On 6 April 2011**, during a routine vehicle inspection while on foot patrol in Albert Rd at 11.38hrs, Licensing Officers identified Mrs Dunn's vehicle, plate number 922 and registration LR55 RGY, to have a screw in the rear nearside tyre. Officers issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defect had been rectified.

**On 8 October 2011**, during a joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police, on Albert Road at 20.45, a Licensing Officer identified Mrs Dunn's vehicle, plate number 210 and registration WF54 HXJ, to have a worn rear nearside tyre. Tread readings taken with an MOT approved depth gauge, gave the reading 0.5mm on the inner part of the tread, the legal limit being 1.6mm or above. The Officers served an immediate Vehicle Prohibition notice which suspended the vehicle licence until the defect was rectified.

8. 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(b) of the licence requires:-

*The licensed driver shall notify the Council's Licensing Unit **in writing** of a change of office from which shel/he operates, within 7 days.*

Mrs Dunn has breached this condition of licence, as there is no trace of her having informed the Licensing Office, in writing, of her recent change in Operator. This information was only ascertained during a recent Police Operation in which Mrs Dunn's vehicle was subject to an inspection outside of her new Operators office.

Officers are now seeking a review of the status of the licence held by Mrs Dunn due to her repeated offending and apparent ongoing disregard for basic vehicle maintenance and the conditions of licence. I

9. 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, since the grant of a licence – for :- **“any other reasonable cause”**.

10. In reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. 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 in making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

**Paragraph 2** - states that motoring offences and contravention of licensing laws or conditions are relevant offences 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.

9. Mrs Dunn has been invited to attend this Licensing Committee in order that this matter may be considered.

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