



**Barry Keel**  
Chief Executive

Plymouth City Council  
Civic Centre  
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[www.plymouth.gov.uk/democracy](http://www.plymouth.gov.uk/democracy)

Date: 18-1-2012

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## **TAXI LICENSING COMMITTEE**

**Date:** Thursday 26 January 2012

**Time:** 10am

**Venue:** Council House, next to 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

# **TAXI LICENSING COMMITTEE**

## **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 1 December 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 - J TRENK**

**(Pages 7 - 12)**

The Director of Place will submit a report on a licensed hackney carriage driver review of license status.

#### **7. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - W DUNN**

**(Pages 13 - 18)**

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

#### **8. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - C TEODORU**

**(Pages 19 - 24)**

The Director of Place will submit a report on a licensed hackney carriage 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 items 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 - 26)**

To confirm the confidential minutes of the meeting held on 1 December 2011.

#### **11. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - SWB (E3 AND E7) (Pages 27 - 34)**

The Director of Place will submit a report on a licensed hackney carriage driver application for exemption.

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

#### **12. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - SOH (E3 AND E7) (Pages 35 - 42)**

The Director of Place will submit a report on a licensed hackney carriage driver application for exemption.

#### **13. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - KH (E3 AND E7) (Pages 43 - 48)**

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

#### **14. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - RW (E3 AND E7) (Pages 49 - 54)**

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

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## Licensing Committee (Hackney Carriage)

Thursday 1 December 2011

### PRESENT:

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

Apology for absence: Councillor Reynolds (Chair).

Also in attendance: Tracey Bromley (Licensing), Sharon Day (Lawyer), Andrea Gilbert (Lawyer), James Hirst (Licensing Officer) and Andy Netherton (Manager Health, Safety and Licensing).

The meeting started at 10.00 am and finished at 4.45 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.*

### 86. APPOINTMENT OF VICE CHAIR

Agreed that Councillor Mrs Nicholson is appointed as Vice Chair for this particular meeting.

### 87. DECLARATIONS OF INTEREST

There were no declarations of interest made by councillors in accordance with the Code of Conduct.

### 88. MINUTES

Agreed the minutes of the meeting held on 3 November and 17 November 2011 are confirmed as a correct record.

### 89. CHAIR'S URGENT BUSINESS

With the permission of the Chair, Councillor Rennie raised concerns regarding the lack of progress regarding reinstating the taxi rank at Marks and Spencer and advised that some disability groups within the city were considering taking legal action against the council relating to this matter.

The Manager for Health, Safety and Licensing advised that –

- (a) following the protracted process with the installation of the taxi rank for the Barbican, officers were keen to ensure that they were fully aware of the approvals required;
- (b) there was some flexibility with the traffic restrictions on this part of the road; taxis were permitted to drop off and pick up in this area;

- (c) the Plymouth City Council Act 2975 required the approval of both the police and highways, in order to instate a taxi rank;
- (d) this particular taxi rank had been included as part of the review but both the police and highways had not been happy for the rank to be reinstated.

Agreed that a verbal report including a timeline is submitted to the next committee meeting, regarding the instatement of a taxi rank outside of Marks and Spencer.

(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 for councillors' decision).

90. **APPEAL CASES**

The committee was advised that there had been no new appeal cases since the last meeting.

91. **HACKNEY CARRIAGE AND PRIVATE HIRE FEES FOR 2011/12**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered the objections against the proposed fee increase;
- (c) considered the following responses provided to questions raised by the committee –
  - there was no facility within the licensing department to handle cash (the council wished to move away from handling cash);
  - currently there were no individual driver accounts set up; funds were paid into the general account and monies vired from one account to another;
  - individuals had the right to a fair hearing and as such interrupters would be used to ensure that the individual fully understood the proceedings.

The committee agreed –

- (1) to approve the new fee structure as advertised and as set out in the fees table (appendix I in the report) as it was not considered proportionate to alter the fees on the objections received;
- (2) that the fees would come into effect on 1 January 2012.

**Order of Business**

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

92. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - W A DUNN**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mrs Dunn;
- (c) heard from the legal officer.

The committee agreed to adjourn to the next available meeting due to technical reasons concerning Mrs Dunn's licence, which needs to be resolved before the matter is heard by the committee.

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard that Mr Banta was not present at this meeting;
- (c) taken into account that –
  - Mr Banta was sent a letter inviting him to attend this hackney carriage meeting. The letter advised him that in the event of his non-attendance, the matter might be considered in his absence. Mr Banta had not attended the meeting, although it was understood that he was out of the country; it was considered in the interest of public safety to hear the item today;
  - Members were unable to ask Mr Banta why he gave incorrect information regarding the attainment of his VRQ due to Mr Banta's non attendance;
- (d) Members were however concerned that at the hearing on 4 August 2011, the fact that they believed Mr Banta's assertion that he had a VRQ qualification was instrumental in their overall decision making process when considering the report at that time;

- (e) heard from the licensing officer that Mr Banta had now completed his six day suspension and had now commenced his VRQ training; the licensing officer confirmed that V Banta had elected to complete not only the VRQ but also the NVQ qualification.

The committee agreed to impose a three day suspension in view of the incorrect and misleading information provided by Mr Banta at the 4 August 2011 committee hearing and to require Mr Banta to provide his complete VRQ certificate to the licensing department by 1 June 2012; failure to provide the certificate within the specified period will result in Mr Banta being called before the committee to explain this failure.

94. **EXEMPT INFORMATION**

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

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

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

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

The committee having –

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

The committee agreed that the application for a private hire driver's licence is granted subject to BJB satisfactorily completing all the pre requisite tests, these being the Knowledge of Plymouth test, driving standards test and Group II medical certificate in addition to the VRQ level II driver qualification in Transporting Passengers by Taxi and Private Hire, or equivalent which must be completed within the first 12 months of his newly granted licence.

97. **LICENSED HACKNEY CARRIAGE DRIVER - APPLICATION FOR EXEMPTION - GCP (E3 AND E7)**

The committee having –

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

The committee agreed to elect to grant GCP a 12 month exemption only and to invite him to produce a medical certificate at the end of that period with an update report on his condition if he still required a life time exemption.



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

*(Councillor Churchill left the room and was not present for items 98, 99, 100 and 101)*

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

The committee having –

- (a) considered the report from Director for Community Services;
- (b) heard from the Licensing Officer that KSJM had now provided his medical certificate.

The committee agreed that due to KSJM providing his medical certificate no further action would be taken in this matter.

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from the licensing officer that IAM had handed in his private hire driver's licence badge.

The committee agreed that no further action is taken in this matter.

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

The committee having –

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

The committee agreed that the application for a hackney carriage driver's licence is granted subject to NJB satisfactorily completing the driving standards test, although Members agreed to NJB's request to be exempt from sitting the Knowledge of Plymouth test; as with all new drivers, NJB will be required to complete the VRQ drivers' qualification or equivalent in common with all new applicants since the adoption of the Taxi Licensing Policy which must be completed within the first 12 months of the newly granted licence.

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from KJ;
- (c) heard from KJ's representative.

The committee agreed that it would follow its own guidelines and have elected to refuse this application, as it did not consider that KJ is a fit and proper person, at this time, to hold a private hire driver's licence.

*(Please note: there is a confidential part to these minutes)*

**CITY OF PLYMOUTH**

**Subject:** Licensed Hackney Carriage Driver Review of Licence Status  
**Committee** Taxi Licensing Committee  
**Date:** 26 January 2012  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director of Place  
**Author:** George Curness – Licensing Officer (Taxis)  
**Contact:** Tel: 01752 307964  
Email [george.curness@plymouth.gov.uk](mailto:george.curness@plymouth.gov.uk)  
**Ref:** ERS/LIC/GC/jt  
**Key Decision:** No  
**Part:** I

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**Executive Summary:**

Mr Jaroslav Trenik is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by this Council on the 1 October 2007. He transferred his licence to Hackney Carriage from Private Hire on 20 December 2010. His current licence is due to expire on 19 December 2012.

On 6 December 2011 Mr Trenik attended the Civic Centre, when it was noted that Mr. Trenik had received motoring convictions on his DVLA licence, which had not been reported in the correct manner.

Mr Trenik 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 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment and 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 Taxi Licensing Committee consider this report.

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

None.

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**Background papers:**

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**Sign off:**

Fin		Leg	<b>SD/23.12.11/13610</b>	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

**Report**

1. Mr Jaroslav Trenik is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by this Council on the 1 October 2007. He transferred his licence to Hackney Carriage from Private Hire on 20 December 2010. His current licence is due to expire on 19 December 2012.
2. On 6 December 2011 Mr Trenik attended the Civic Centre, when it was noted that Mr Trenik had received motoring convictions on his DVLA licence which had not been reported in the correct manner.

A memorandum of conviction was subsequently obtained from Plymouth Magistrates' court on 7 December 2011, which revealed the information below:

**26 October 2009 at Plymouth Magistrates' Court**

Mr Trenik was convicted of using a hand held mobile phone while driving a motor vehicle on a road. The offence took place on 9 September 2009 on Sutton Road Plymouth in a vehicle registration number YA52AYV.

Contrary to Regulation 110(1) of the Road Vehicles (Construction and Use) Regulations 1986, S 41D of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Trenik was fined £60 and ordered to pay a Victim Surcharge of £15. His DVLA counterpart was endorsed with 3 penalty points.

At the time of this offence the vehicle in question was a licensed vehicle with Plymouth City Council, hired to Mr Trenik.

**On 10 September 2009 at Honiton Magistrates' Court**

Mr Trenik was convicted of speeding, exceeding the 70 mph motorway limit. The offence took place on 8 July 2009 at Cullompton, Devon on the M5 motorway in a vehicle registration number WK02VKH.

Contrary to Regulation 3 of the Motorways Traffic (speed limit) Regulations 1974, S.17(4) of the Road Traffic Regulation Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Trenik was fined £350 and ordered to pay a Victim Surcharge of £15 and £85 costs. His DVLA counterpart was endorsed with 5 penalty points.

Convicted of Using a Motor Vehicle without a test certificate on the same date.

Contrary to S47(1) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

There was no separate penalty for this offence.

At the time of this offence the vehicle in question was a licensed vehicle with Plymouth City Council, owned by Mr Trenik.

**On 9 January 2009 at Plymouth Magistrates' Court**

Mr Trenik was convicted of speeding, exceeding the 30 mph local order. The offence took place on 26 May 2008 at Horrabridge, Devon on the A386, in a vehicle registration number MJ52KHF.

Contrary to the relevant local order and S.84 and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Trenik was fined £45 and ordered to pay a Victim Surcharge of £15. His DVLA counterpart was endorsed with 3 penalty points.

At the time of this offence the vehicle in question was a licensed vehicle with Plymouth City Council, hired to Mr Trenik.

On 22 October 2011 Mr Trenik received a fixed penalty fine and 3 penalty points for contravention of a Traffic Light signal.

3. At the time of writing this report Mr Trenik has a total of 14 current penalty points endorsed on his DVLA driving licence, as in addition to the above Mr Trenik had been convicted of speeding on the 15 December 2008 and received a fine of £45 and 3 penalty points. At the time of the Committee hearing on 26 January 2012, these three penalty points will be spent. An enquiry to Police informed the Licensing Office that it may have been a clerical error that was not picked up, that led to the final three penalty points being awarded to Mr Trenik without a consideration of disqualification.
4. 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 Trenik was a Private Hire driver at the time of all the convictions and has breached this condition of licence, as there is no trace of him having complied with this condition in respect of any of the convictions mentioned above.

5. Members are made aware that Mr Trenik's vehicle has been inspected by licensing officers on numerous occasions.

**On 5 July 2009**, a Private Hire vehicle, registration number WK02VKH, was inspected and was found to have a tyre with tread below the legal limit, the vehicle licence was immediately suspended. The vehicle suspension was lifted the same day after the fault was rectified.

**On 22 December 2010**, a Hackney Carriage, registration number W951VLY, was inspected and found to have a dip lamp not working, two tyres below the legal limit and the middle tip-up seat was broken, the vehicle licence was immediately suspended. The vehicle licence suspension was lifted on 23 December 2010 after the faults were rectified.

**On 11 March 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have a front indicator assembly faulty, and in danger of falling out, the front bumper was insecure, the O/S tip up seat had a weld failure and the N/S passenger door check-strap was not functioning, the vehicle licence was immediately suspended. The vehicle suspension was lifted on 12 March 2011 after the faults were rectified.

**On 14 March 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have the O/S stop lamp not working, a rear seat was split, and there was no insurance certificate in the vehicle. The driver was issued with a VDR requiring the faults to be rectified in 2 days, and they were rectified on 16 March 2011.

**On 12 May 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have the N/S stop lamp not working and the door check-straps were faulty. The stop lamp was rectified immediately and the check-straps were repaired by 17 May 2011.

**On 4 October 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have the N/S rear tyre with no tread on the inner part. The front N/S hub cap was missing and there were marks on the front screen obstructing the drivers view, and the vehicle licence was immediately suspended. The faults were rectified the same day, and the suspension was lifted.

Members are made aware that, the overall management of the vehicle and its road worthiness is the responsibility of the vehicle user, in this case Mr Trenik.

6. Members are asked to consider whether Mr Trenik 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, breach of his Private Hire Driver’s licence conditions, and lack of maintenance of the vehicles that he drives.
7. 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 ~~ae~~
8. 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 a criminal record does not automatically prevent an applicant from obtaining a licence unless the Council considers the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

**Paragraph 2** - states that motoring convictions 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.

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

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



**Subject:** Licensed Private Hire Driver Review of Licence Status.  
**Committee** Taxi Licensing Committee  
**Date:** 26 January 2012  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director of Place  
**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:** I

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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.

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**Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment and 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 Taxi 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	<b>AZG/13229/4.11.11</b>	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 3 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 6 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 3 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 7 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 eight 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 six 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 two 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 she/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.

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 Taxi Licensing Committee 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 Committee in relation to the above matters which was adjourned from a previous meeting held on the 1 December 2011.

**CITY OF PLYMOUTH**

**Subject:** Licensed Hackney Carriage Driver Review of Licence Status  
**Committee** Taxi Licensing Committee  
**Date:** 26 January 2012  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director of Place  
**Author:** George Curness - Taxi Licensing Officer  
**Contact:** Tel: 01752 307984  
Email george.curness@plymouth.gov.uk  
**Ref:** ERS/LIC/GC/ct  
**Key Decision:** No  
**Part:** 1

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**Executive Summary:**

Mr. Cristian Teodoru is a licensed Hackney Carriage vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 2 December 2008. Mr Teodoru transferred to Hackney Carriage on 14 May 2009, his present licence is due to expire on the 13 May 2012.

On the 16 December 2011 a copy of a UK counterpart was received from Mr Teodoru which indicated that he had received fines and penalty points on his driving licence.

Mr Teodoru 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 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment and 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:**

It is recommended that the Members consider this report.

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

None.

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**Background papers:**

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**Sign off:**

Fin		Leg	<b>SD/22.12.1 I/13600</b>	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											



**Report**

1. Mr Cristian Teodoru is a licensed Hackney Carriage vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 2 December 2008. Mr Teodoru transferred to Hackney Carriage on 14 May 2009, his present licence is due to expire on the 13 May 2012.
2. On the 16 December 2011 a copy of a UK counterpart was received from Mr Teodoru which indicated that he had received fines and penalty points on his driving licence. these are detailed below:

On 4 April 2009, a fixed penalty fine and 3 penalty points were issued by Plymouth Magistrates' Court regarding an offence of Using a Mobile Phone Whilst Driving.

On 3 January 2011, a fixed penalty fine and 3 penalty points were issued by Plymouth Magistrates' Court regarding an offence of Exceeding the Statutory Speed Limit on a Public Road

On 14 May 2011, a fixed penalty fine and 3 penalty points were issued by Plymouth Magistrates' Court regarding an offence of Exceeding the Statutory Speed Limit on a Public Road

3. Therefore Mr Teodoru has nine current penalty points on his DVLA UK counterpart, all received whilst a Licensed driver.
4. Mr Teodoru has completed Level 2 NVQ in Road Passenger Vehicle Driving (Hackney Carriage or Private Hire vehicles)
5. 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 Teodoru has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the fixed penalty fine on 4 April 2009.

6. Byelaw 11 of the Hackney Carriage Byelaws 14 July 2009 require a driver of a hackney carriage to notify the Council of any motoring fixed penalty endorsements received, in writing within seven days of receiving the endorsement. There is no record of Mr Teodoru complying with this requirement.
7. Members are asked to consider whether Mr Teodoru is a "fit and proper" person in light of the above fixed penalty offences, breach of his Private Hire licence and failure to comply with the Hackney Carriage byelaws and what, if any sanction, needs to be applied to his Hackney Carriage driver licence.
8. 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.

9. In deciding whether Mr Teodoru 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 the disclosure of a criminal record or other information will not automatically prevent any applicant from obtaining a licence unless the Council considers the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

**Paragraph 2** - states that motoring offences are relevant offences when considering the suitability of a person to retain a licence.

10. For their information Members are made aware that at the time of the second and third fixed penalty notices Mr Teodoru was a licensed Hackney Carriage driver, so Paragraph 11 of the Hackney Carriage Bye-Laws applies, which states that the driver (of a Hackney Carriage) shall inform the Council of any fixed penalty endorsements received, within seven days of receiving the endorsement.
11. Mr Teodoru has been invited to attend this Taxi Licensing Committee in order that this matter may be considered.

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