

# Public Document Pack



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Date: 20-2-2012

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## **TAXI LICENSING COMMITTEE**

**Date:** Thursday 23 February 2012

**Time:** 10.00 am

**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

# 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 26 January 2012.

#### 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 for Place will submit a report on a licensed hackney carriage driver review of licence status.

#### 7. LICENSED HACKNEY CARRIAGE DRIVER APPLICATIONS FOR WHEELCHAIR EXEMPTIONS STATISTICS

(Pages 13 - 22)

The Director for Place will submit a report on licensed hackney carriage driver applications for wheelchair exemptions statistics.

## **8. 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.

#### **9. CONFIDENTIAL MINUTES (E3 AND E7) (Pages 23 - 24)**

To confirm the confidential minutes of the meeting held on 26 January 2012.

#### **10. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - NDW (E3 AND E7) (Pages 25 - 30)**

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

#### **11. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - AD (E3 AND E7) (Pages 31 - 36)**

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

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

#### **12. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - RRWB (E3 AND E7) (Pages 37 - 44)**

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

#### **13. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - KRB (E3 AND E7) (Pages 45 - 52)**

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

**14. LICENSED HACKNEY CARRIAGE DRIVER (Pages 53 - 60)**  
**APPLICATION FOR EXEMPTION - BGM (E3 AND E7)**

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

**15. LICENSED HACKNEY CARRIAGE DRIVER (Pages 61 - 68)**  
**APPLICATION FOR EXEMPTION - SOH (E3 AND E7)**

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

## Taxi Licensing Committee

Thursday 26 January 2012

### PRESENT:

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

Apology for absence: Councillor Reynolds.

Also in attendance: Nicky Bradley (Licensing), George Curness (Licensing), Sharon Day (Lawyer), Andy Netherton (Licensing) and Helen Wright (Democratic Support).

The meeting started at 10.00 am and finished at 2.35 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.*

### 102. APPOINTMENT OF VICE CHAIR

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

### 103. DECLARATIONS OF INTEREST

The following declaration of interest was made in accordance with the code of conduct in relation to an item under consideration at this meeting –

| Name                 | Subject  | Reason                                     | Interest                 |
|----------------------|--|--|--------------------------|
| Councillor Churchill | Licensed Private Hire Driver Review of Licence Status<br>Minute 113        | He knew the applicant in a social capacity | Personal/<br>Prejudicial |
| Councillor Rennie    | Licensed Hackney Carriage Driver – Application for Exemption<br>Minute 112 | he knew the doctor concerned in the case   | Personal                 |

### 104. MINUTES

Agreed that the minutes of the meeting held on 1 December 2011 are confirmed as a correct record.

105. **CHAIR'S URGENT BUSINESS**

With the permission of the Chair, the Manager for Health, Safety and Licensing provided an update on the progress relating to the instatement of a taxi rank outside of Marks and Spencer, Cornwall Street, which highlighted the following main points –

- (a) AMEY had been commissioned to undertake a road safety audit to ensure that this was a safe location to site a taxi rank and to establish how many vehicles could use it;
- (b) the Plymouth City Council Act, 1975 required the approval of both the police and highways in order to instate a taxi rank;
- (c) following a meeting between Plymouth City Council's parking enforcement team and the private hire operators, an agreement had been reached whereby private hire vehicles would not receive a ticket for dropping off or picking up in this area.

The committee agreed to receive an initial report within six weeks following the receipt of the road safety audit and the full report within three months.

(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 inform Members).

106. **APPEAL CASES**

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

107. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - J TRENK**

The committee –

- (a) considered the report of the Director for Place;
- (b) heard from Mr Wildman who informed the committee that Mr Trenik was not able to attend and requested that the matter be adjourned to the next committee.

The committee agreed that the matter is adjourned to the next available committee and that Mr Trenik is informed that the matter would be dealt with in his absence if he field to attend on the next occasion.

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

The committee –

- (a) considered the report from the Director for Place;

- (b) heard from the Licensing Officer that Mrs Dunn had renewed her licence and therefore her current licence was due to expire on 5 December 2012;
- (c) heard from Mrs Dunn;
- (d) took the following into account –
- Mrs Dunn had been a private hire driver since 2003;
  - on 24 October 2011 she had been convicted of smoking in her licensed private hire vehicle and had been fined £100 and ordered to pay £100 costs;
  - on 6 April 2011, Mrs Dunn had been issued with a verbal warning about smoking in her vehicle as officers had been concerned with regard to the amount of ash within her vehicle; Mrs Dunn explained that she had now given up smoking;
  - Mrs Dunn had been convicted of plying for hire in 2008 for which she was fined £700 and ordered to pay costs of £873 and had her licence endorsed with eight penalty points; she had subsequently appeared before committee in respect of this offence and had her private hire driver's licence suspended for two days;
  - in the last 12 months Mrs Dunn received three prohibition notices due to defective tyres; Mrs Dunn explained that she now checked her vehicle every other day by way of checking her tyres, lights, brakes and fluids; with respect to the most recent bald tyre the vehicle had been MOT'd 10 days earlier and she had not expected there to be a bald tyre within that short space of time; all vehicles were hired at the time of the offences;
  - Mrs Dunn had failed to notify the Council of her change of operator as required by condition 1(b) of her private hire driver's licence; Mrs Dunn explained that this was because her new operator had said he would advise the Council and she had previously complied with this condition when she changed operator on another occasion;
- (e) was concerned that –
- Mrs Dunn appeared to show a lack of respect for authority and appeared to blame others for her mistakes;

- about the state of Mrs Dunn's vehicles and the lack of maintenance which could have had severe implications for public safety;
- this was the second time Mrs Dunn had appeared before the committee.

The committee agreed that due to concerns for public safety and breach of licence condition, Mrs Dunn's licence is suspended for seven days and she is further required to take the VRQ in transporting passengers by Taxi and Private Hire or equivalent qualification within the next 12 months; this was in accordance with Section 19(1)(b) of the Plymouth City Council Act, 1975 and paragraph 10.2 of Chapter 4 of the Council's policy.

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

The committee –

- (a) considered the report from the Director for Place was advised that paragraph five of the report should refer to condition 1(e) of the conditions of licence which required the notification of motoring fixed penalty endorsements in writing within seven days;
- (b) heard from Mr Teodoru;
- (c) took the following into account, that –
  - Mr Teodoru had been a licensed driver since 2008 and had transferred from private hire to hackney carriage in May 2009;
  - Mr Teodoru had received nine penalty points since April 2009, six of which were in respect of speeding and the remaining three related to using a mobile phone whilst driving;
  - Mr Teodoru had failed to notify the Council as required by his private hire conditions and the hackney carriage byelaws, of the motoring endorsements;
  - motoring offences were relevant when considering the suitability of a person to retain a licence;
- (d) was concerned that Mr Teodoro –
  - had been doing in excess of 10mph over the speed limit on each occasion he was caught; he had passengers on board on one occasion and that he had been distracted by the passenger talking to him;



- had explained that a faulty speedometer was partially to blame for him speeding yet he had still continued to drive knowing this fault existed and this had the potential to put the public at risk;
- was not aware of the fact that he had to report his fixed penalty notices and had failed to comply within the correct time period.

The committee agreed that having taken the above into account Mr Teodoru's hackney carriage driver's licence is suspended for four days, in accordance with Section 19(1)(b) of the Plymouth City Council Act, 1975.

110. **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 paragraphs 3 and 7 of Part I Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

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

Agreed that the minutes of the meeting held on 1 December 2011 are confirmed as a correct record.

112. **LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - SWB (E3 AND E7)**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from SWB and considered the certificate provided by his GP.

The committee agreed to grant SWB a certificate giving him a life time exemption from carrying wheelchairs in his hackney carriage vehicle.

Following a discussion relating to the number of applications for wheelchair exemption certificates, the committee agreed to include the review of wheelchair exemption certificates on the agenda for the next committee meeting.

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

**Order of Business**

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

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

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from RW.

The committee agreed that having taken the above into account RW's licence is suspended for two days in accordance with section 19(1)(b) of the Plymouth City Council Act, 1975. RW is further required to produce a copy of his VRQ qualification within the next 10 working days.

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

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

114. **LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - SOH (E3 AND E7)**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from the Licensing Officer that SOH was unable to attend and therefore requested the committee to deal with the matter in his absence.

Members were concerned that they did not have sufficient information to be able to decide the matter without SOH being present.

The committee agreed that this matter is adjourned to a committee date that SOH is able to attend.

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

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from the Licensing Officer that KH had surrendered his licence and was no longer a private hire driver.

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

**CITY OF PLYMOUTH**

**Subject:** Licensed Hackney Carriage Driver Review of Licence Status  
**Committee** Taxi Licensing Committee  
**Date:** 23 February 2012  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director for Place  
**Author:** George Curness – Licensing Officer (Taxis)  
**Contact:** Tel: 01752 307964  
Email: 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.

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**Other Implications: e.g. 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:**

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**Sign off:**

|                        |  |     |                          |    |  |              |  |    |  |                |  |
|------------------------|--|-----|--------------------------|----|--|--------------|--|----|--|----------------|--|
| Fin                    |  | Leg | <b>SD/23.12.11/13610</b> | HR |  | Corp<br>Prop |  | IT |  | Strat.<br>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 m.p.h 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 Horrbridge, Devon on the A 386, 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 3 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 ~~ca~~
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 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. Mr Trenik has been invited to attend this Licensing Committee in order that this matter may be considered.



**CITY OF PLYMOUTH**

**Subject:** Licensed Hackney Carriage Driver Applications for Wheelchair Exemptions Statistics

**Committee:** Taxi Licensing Committee

**Date:** 23 February 2012

**Cabinet Member:** Councillor Jordan

**CMT Member:** Director for Place

**Author:** George Curness - Assistant Licensing Officer

**Contact:** Tel: 01752 307964  
Email: george.curness@plymouth.gov.uk

**Ref:** ERS/LIC/GC/-

**Key Decision:** No

**Part:** I

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**Executive Summary:**

On 26 January 2012, Members were asked to consider granting an exemption for drivers carrying wheelchair users in Hackney carriages. Members had concerns over the numbers of similar applications made over recent months. This report details numbers of exemptions granted and gives a brief outline of exemptions granted over certain periods of time since the adoption of the Hackney carriage and Private hire Policy in 2008.

A Licensing Officer will be in attendance to answer Members questions.

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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. 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 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. All decisions should be considered against the requirements of the Equalities Act 2010.

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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:**

None.

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**Sign off:**

|                        |  |     |                          |    |  |           |  |    |  |            |  |
|------------------------|--|-----|--------------------------|----|--|-----------|--|----|--|------------|--|
| Fin                    |  | Leg | <b>AG/13876/7.2.2012</b> | HR |  | Corp Prop |  | IT |  | Strat Proc |  |
| Originating SMT Member |  |     |                          |    |  |           |  |    |  |            |  |

## Report

1. On 26 January 2012, Members were asked to consider granting an exemption for a driver carrying wheelchair users in Hackney carriages. Members had concerns over the numbers of similar applications made over recent months. This report details numbers of exemptions granted since the adoption of the Hackney carriage and Private Hire Policy in 2008.
2. In deciding whether drivers should be granted a medical exemption certificate, Members should have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

### **Chapter 2 - Conditions of Licence**

#### **23.0 Medical Exemptions**

**Paragraph 23.1** Hackney Carriage drivers are not permitted to refuse disabled persons, unless the driver holds a medical exemption certificate excusing him from such duties, or, for example, the physical characteristics of the person's wheelchair prevent access to the vehicle. This should only be in exceptional circumstances.

**Paragraph 23.2** The Council expect drivers of both hackney carriages and private hire cars to accept assistance dogs, unless the driver holds a medical exemption certificate excusing them from such duties.

**Paragraph 23.3** The Council will not accept a medical certificate that is more than three months old and will as a consequence require new medical certificates where a medical condition continues for an extended period.

**Paragraph 23.4** In circumstances where a driver either has a temporary or permanent medical condition preventing the performance of their duty towards disabled passengers, or the ability to carry assistance dogs, the driver may apply for a medical exemption certificate from the Council. The authority reserves the right to review a licence on medical grounds.

**Paragraph 23.5** An applicant for a medical exemption certificate will be required to have their application determined by the Licensing Committee (Hackney Carriage) in the following circumstances:-

- **Where there is an application for a "lifetime" exemption; or**
- **Where an applicant already holding a medical exemption, not being a lifetime exemption, applies for an extension of the exemption period**

3. The process undertaken by applicants for an exemption is that they complete an application form and their GP completes a separate part of the form which outlines the medical condition. Following a grant of an exemption, the driver is sent a letter informing them of that grant and a laminated vehicle notice is issued to them, this is to be put on public view in the vehicle to inform wheelchair users that the driver has an exemption.

This vehicle notice carries a photo of the driver plus their licence number to prevent the exemption being transferred, and for enforcement purposes. All exemptions are noted on a table, details are given below. This process meets the requirements of the Department for Transport Good practice Guide.

4. There are 367 Hackney Carriages licensed by Plymouth City Council, all are wheelchair accessible. These are driven by 445 licensed drivers, some vehicles having two drivers.

**50 drivers currently have exemptions, 47 of which are lifetime exemptions, (11 per cent).**

Since the adoption of the Policy in November 2008, there have been -

1 exemption granted in 2008 (in December)  
9 exemptions granted in 2009  
1 exemption granted in 2010  
6 exemptions granted in 2011 (2 for 1 year only)  
2 exemptions granted in 2012 (1 for 1 month only)  
All lifetime exemptions granted by Members.

5. Since the Policy was adopted in 2008, 2 changes have been made to the application process. Firstly a paragraph was included in the application form to state that the GP considered the applicant to satisfy DVLA Group 2 driver medical standards. This was included as some applicants may have been on medication or had conditions that in some way would prevent them attaining this standard.

The second was a change to the wording “in your opinion, does this person have a medical condition which is **aggravated** by his/her condition”. It has been changed to “does this person have a medical condition which **prevents** him/her from assisting wheelchair users”

6. From the statistics in p.4, it can be seen that there were two “spikes” in 2009 and 2011. Members should be made aware that in 20011, 2 drivers were convicted of not adequately securing a wheelchair.
7. Officers are currently reviewing the policy and procedures for obtaining wheelchair exemptions. Members’ views on this issue are welcomed and will be considered during the drafting of any new policy. All Members will receive a draft copy of the proposals during the consultation process.
8. At a National level the Law Commission are undertaking a review of the Licensing system, which will also need to consider wheelchair exemptions and disabled access. Draft legislation changes are to be published in the next 6 months.
9. An application form is reproduced at the end of this report, for Members consideration.

**Plymouth City Council**  
**Wheelchair exemption application**



Application for exemption, on medical grounds, from the duties placed on licensed Hackney Carriage drivers by the Disability Discrimination act or section 53 of the Town Police Clauses Act 1847 insofar as they relate to wheelchair accessibility.

This form must be completed by the applicant and returned to:

LICENSING UNIT, PUBLIC PROTECTION SERVICE, DEPARTMENT OF COMMUNITY SERVICES, CIVIC CENTRE, PLYMOUTH PL1 2AA

www.plymouth.gov.uk

Direct line: 304141

Fax No: 307810

E-mail: [taxi.licensing@plymouth.gov.uk](mailto:taxi.licensing@plymouth.gov.uk)

**Applicant Details**

|                               |  |
|-------------------------------|--|
| <b>Full name of applicant</b> |  |
|-------------------------------|--|

|                      |  |
|----------------------|--|
| <b>Date of birth</b> |  |
|----------------------|--|

|                |  |
|----------------|--|
| <b>Address</b> |  |
|----------------|--|

|                  |  |
|------------------|--|
| <b>Post Code</b> |  |
|------------------|--|

|                 |  |
|-----------------|--|
| <b>Tel. No.</b> |  |
|-----------------|--|

|                                   |  |
|-----------------------------------|--|
| <b>Hackney driver licence no.</b> |  |
|-----------------------------------|--|

**Licensed vehicle details**

|   |  |
|---|--|
| <b>If driving single vehicle, please enter plate number</b> |  |
|---|--|

|  |  |
|--|--|
| <b>Please state the medical reason why you are applying for an exemption</b> |  |
|--|--|

This will need to be verified by either your GP / Specialist or the Licensing Authorities own medical advisor.

|   |     |    |
|---|-----|----|
| <b>Are you willing to undergo a medical in connection with this application? Tick box</b> | Yes | No |
|---|-----|----|

|   |     |    |
|---|-----|----|
| <b>Do you consent to medical information relevant to this application being released to the Licensing Authority? Tick box</b> | Yes | No |
|---|-----|----|

**Details of applicants GP**

|                     |  |
|---------------------|--|
| <b>Doctors Name</b> |  |
|---------------------|--|

|                        |  |
|------------------------|--|
| <b>Surgery Address</b> |  |
|------------------------|--|

|                  |  |
|------------------|--|
| <b>Post Code</b> |  |
|------------------|--|

|                 |  |
|-----------------|--|
| <b>Tel. No.</b> |  |
|-----------------|--|

**Details of medical examiner or specialist (if same as GP – leave blank)**

|                     |  |
|---------------------|--|
| <b>Doctors Name</b> |  |
|---------------------|--|

|                |  |
|----------------|--|
| <b>Address</b> |  |
|----------------|--|

|                  |  |
|------------------|--|
| <b>Post Code</b> |  |
|------------------|--|

|                 |  |
|-----------------|--|
| <b>Tel. No.</b> |  |
|-----------------|--|

**Period of exemption (complete one box ONLY)**

|  |     |    |
|--|-----|----|
| <b>Are you applying for a Life Exemption? Tick box</b> | Yes | No |
|--|-----|----|

|   |     |    |
|---|-----|----|
| <b>Are you applying for a temporary Exemption? Tick box</b> | Yes | No |
|---|-----|----|

|  |  |
|--|--|
| <b>If you are applying for a temporary exemption, state the period it is required to last.</b> |  |
|--|--|

**Applicants declaration**

I declare that the information contained within this application is true to the best of my knowledge and belief. I also hereby permit Plymouth City Council to make enquiries with my examining doctor to verify my application to determine my exemption. I also accept that if my exemption is granted by Plymouth City Council, any misuse of the exemption granted to me may result in the withdrawal of that exemption and / or prosecution.

|                               |  |
|-------------------------------|--|
| <b>Signature of applicant</b> |  |
|-------------------------------|--|

|             |  |
|-------------|--|
| <b>Date</b> |  |
|-------------|--|

Revised Jan 2011



LICENSING UNIT, PUBLIC PROTECTION SERVICE, DEPARTMENT OF COMMUNITY SERVICES, CIVIC CENTRE, PLYMOUTH PL1 2AA

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**Background Information for Doctors**

**Obligations on Licensed Taxi Driver to Carry Disabled Persons using Wheelchairs**

The Government is committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society. Taxis are a vital link in the accessible transport chain and it is important that disabled people who use wheelchairs can have confidence that the taxi they find on a rank, or hail on the street, will accept them and carry them in their wheelchair at no extra charge.

All taxi drivers have an obligation under section 53 of the Town Police Clauses Act 1847 to carry any person wishing to hire them within the licensing area. This also includes persons using wheelchairs. Under the Equality Act 2010, it will be a separate lawful requirement for all taxi drivers to carry wheelchair users, unless they are in possession of an exemption certificate issued in accordance with that Act. However, that part of the Act is not yet in force.

The Council has determined that it shall provide an exemption to these duties, to drivers who have medical conditions which are aggravated by assisting people in wheelchairs. The Council is responsible for issuing exemption certificates and needs to be satisfied that it is appropriate to do so on medical grounds

**For completion by General Practitioner or medical Specialist ONLY**

**Patient Details**

|                             |  |
|-----------------------------|--|
| <b>Full name of patient</b> |  |
|-----------------------------|--|

|                      |  |
|----------------------|--|
| <b>Date of birth</b> |  |
|----------------------|--|

|                |  |
|----------------|--|
| <b>Address</b> |  |
|----------------|--|

|                  |  |
|------------------|--|
| <b>Post Code</b> |  |
|------------------|--|

|                 |  |
|-----------------|--|
| <b>Tel. No.</b> |  |
|-----------------|--|



|                                   |  |
|-----------------------------------|--|
| <b>Hackney driver licence no.</b> |  |
|-----------------------------------|--|

|                                    |
|------------------------------------|
| <b>Details of examining Doctor</b> |
|------------------------------------|

|                     |  |
|---------------------|--|
| <b>Doctors Name</b> |  |
|---------------------|--|

|                        |  |
|------------------------|--|
| <b>Surgery Address</b> |  |
|------------------------|--|

|                  |  |
|------------------|--|
| <b>Post Code</b> |  |
|------------------|--|

|                 |  |
|-----------------|--|
| <b>Tel. No.</b> |  |
|-----------------|--|

|                                     |
|-------------------------------------|
| <b>Details of medical condition</b> |
|-------------------------------------|

|  |     |    |
|--|-----|----|
| <b>In your opinion, does this person have a medical condition which prevents him/her from assisting wheelchair users? Tick box</b> | Yes | No |
|--|-----|----|

|  |  |
|--|--|
| <b>If "yes" to question above, please give details of condition.</b> |  |
|--|--|

|  |  |
|--|--|
| <b>Does the patient still satisfy DVLA Group II Driver Medical Standards</b> |  |
|--|--|

|  |
|--|
| <b>Period of exemption (complete one box ONLY)</b> |
|--|

In your opinion is this persons medical condition so severe that they should be exempt from carrying wheelchair users in their vehicle,

|                           |     |    |
|---------------------------|-----|----|
| <b>For Life? Tick box</b> | Yes | No |
|---------------------------|-----|----|

**Or**

|                        |  |
|------------------------|--|
| <b>For a period of</b> |  |
|------------------------|--|

|                            |  |
|----------------------------|--|
| <b>Signature of Doctor</b> |  |
|----------------------------|--|

|             |  |
|-------------|--|
| <b>Date</b> |  |
|-------------|--|

**When completed, please pass this form to the applicant who will submit it to the Licensing section.**

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