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Date: 5-10-2011

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

**Date:** Friday 14 October 2011

**Time:** 10am

**Venue:** Council House (Next to the Civic Centre)

**Members:**

Councillor Reynolds, Chair

Councillor Delbridge, Vice Chair

Councillors Bowie, Churchill, Haydon, Mrs Nicholson and Rennie.

Members are invited to attend the above meeting to consider the items of business overleaf.

Members and officers are requested to sign the attendance list at the meeting.

Please note that unless the chair of the meeting agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used in meetings.

**Barry Keel**  
Chief Executive

# **LICENSING COMMITTEE (HACKNEY CARRIAGE)**

## **AGENDA**

### **PART I – PUBLIC MEETING**

#### **1. APOLOGIES**

To receive apologies for non-attendance submitted by Committee Members.

#### **2. DECLARATIONS OF INTEREST**

Members will be asked to make any declarations of interest in respect of items on this Agenda.

#### **3. MINUTES (Pages 1 - 10)**

To confirm the minutes of the meeting held on 1 and 2 September 2011.

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

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

#### **5. APPEAL CASES**

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

#### **6. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - P H ALLEN (Pages 11 - 16)**

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

#### **7. EXEMPT INFORMATION**

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

## **PART II (PRIVATE MEETING)**

### **AGENDA**

#### **MEMBERS OF THE PUBLIC TO NOTE**

that under the law, the Committeel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

**8. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - APG (E3 AND E7) (Pages 17 - 22)**

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

**9. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - BJB (E3 AND E7) (Pages 23 - 28)**

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

**10. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - IB (E3 AND 37) (Pages 29 - 34)**

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

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## Licensing Committee (Hackney Carriage)

Thursday 1 September 2011

### PRESENT:

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

Apologies for absence: Councillors Haydon and Reynolds.

Also in attendance: Andrea Gilbert (Lawyer), James Hirst (Licensing Officer) and Ross Johnston (Democratic Support Officer).

The meeting started at 10am and finished at 4.45pm.

*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.*

### 43. DECLARATIONS OF INTEREST

The following declaration of interest was made in accordance with the Code of Conduct in relation to items under discussion at this meeting –

Name	Subject	Reason	Interest
Councillor Churchill	Minute 54 – Application for the Grant of a Private Hire Driver's Licence - SEM	Knew of the driver's representative.	Personal/Prejudicial

### 44. MINUTES

Agreed that the minutes of the meeting held on 4 August 2011 are confirmed as a correct record.

### 45. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

### 46. APPEAL CASES

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

### 47. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - W R PHILP

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Philp;
- (c) heard details of Mr Philp's disqualification from driving;
- (d) taken into account that Mr Philp –
  - (i) notified the Licensing Department of his conviction and disqualification within the time required by the terms and conditions of his licence;
  - (ii) was undertaking further education to improve his future opportunities and this course was financed and facilitated by his employment and hours as a taxi driver.

However, members were concerned that –

- (iii) Mr Philp had accrued a total of 12 penalty points since May 2009 through committing two speeding offences, contravening special road regulations and driving with faulty tyres;
- (iv) by his own admission some of these offences were due to his own carelessness although he had addressed and revised these attitudes and procedures;
- (v) he was now disqualified from driving for 6 months.

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

In addition the Plymouth City Council Act 1975 enables the Council to suspend, revoke or refuse to renew the licence of a driver of a Private Hire vehicle for any other reasonable cause.

Members consider that as Mr Philp was a licensed Private Hire driver he should have regard to the rules of the road at all times.

They are concerned that the disqualification and the driving offences which led to that disqualification indicate a disregard for the safety of the public and agreed to suspend Mr Philp's licence until such time that he has presented the Licensing Department with a newly passed driving standards certificate after the driving disqualification period has ended.

Once this has been received Mr Philp's Private Hire Driver's licence will be returned to him.

Members have also decided to give Mr Philp a warning, this warning to lie on his file in the event of any future attendance at this committee.

Mr Philp was also required to produce his VRQ in Transporting Passengers by Taxi and Private Hire or its equivalent to the Licensing Department within seven days. Failure to produce this certificate may result in him being called before Committee at a future date.

48. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - K S KAWKA**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Kawka;
- (c) heard details of Mr Kawka's conviction for driving without due care and attention and for driving whilst using a handheld mobile telephone;
- (d) taken into account that Mr Kawka –
  - (i) had now obtained his NVQ in Road Passenger Vehicle Driving;
  - (ii) had improved his standards of vehicle maintenance and taken steps to address his speeding history.

However, members were concerned that –

- (iii) Mr Kawka had convictions for driving without due care and attention and for driving whilst using a handheld mobile phone;
- (iv) he breached the terms and conditions of his private hire driver's licence by failing to notify the Licensing Department of his conviction within the required seven days;
- (v) he now had five penalty points on his driving licence.

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

In addition the Plymouth City Council Act 1975 empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Private Hire vehicle for any other reasonable cause.

Members consider that as Mr Kawka was a licensed Private Hire driver he should have regard to the rules of the road at all times.

They are concerned that his convictions for driving without due care and attention and for driving using a mobile handheld telephone together with his earlier taxi driving history which includes penalty points given for speeding and vehicle and prohibition notices given for failing

to adequately maintain his vehicle demonstrate a lack of consideration for the safety of the public and lack of respect for the rules of the road.

In addition he has breached the terms and conditions of his private hire driver's licence by failing to notify the Licensing Department of his conviction in the correct manner.

This is not the first time he has failed to do so and so the Members consider that he was fully aware of the reporting obligations.

Members have therefore agreed to suspend Mr Kawka's licence for five days.

This represents two days in respect of the failure to report the offences and three days in respect of the offences themselves.

49. **EXEMPT INFORMATION**

Agreed that under Section 100(A)(2) and (4) of the Local Government Act 1972, the press and public are excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of confidential/exempt information as defined in paragraph 3 and 7 of Part 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

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

The committee having –

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

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

AGC is also required to obtain the Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent within the next 12 months and attend at the Licensing Department when this has been attained.

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

51. **APPLICATION FOR THE GRANT OF A RESTRICTED PRIVATE HIRE DRIVER'S LICENCE AND A PRIVATE HIRE OPERATOR'S LICENCE - MBE (E3 AND E7)**

The committee having –

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

Agreed that the application for a restricted private hire driver's licence and a private hire operator's licence is granted.



MBE is required to complete Level II VRQ in Transporting Passengers by Taxi and Private Hire or an equivalent qualification within 12 months in line with Plymouth City Council's Hackney Carriage and Private Hire Vehicle Licensing Policy.

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

The committee having –

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

Agreed that the application for a private hire driver's licence is granted subject to the satisfactory completion of the pre requisite tests, namely the grade II medical test, the driving test and knowledge of Plymouth test. In addition as with all new drivers, JWS is required to complete the VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent within the first 12 months of his licence in line with Plymouth City Council's Hackney Carriage and Private Hire Vehicle Licensing Policy.

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

The committee having –

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

Agreed that the committee have elected to follow its own policy guidelines and refuse IB's application for a private hire driver's licence, as they do not consider IB to be a fit and proper person.

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

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

The committee having –

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

Agreed that the application for a private hire driver's licence is granted subject to the satisfactory completion of the pre requisite tests, namely the grade II medical test, the driving test and knowledge of Plymouth test. In addition as with all new drivers, SEM is required to complete the VRQ qualification in 'transporting passengers by taxi and private

hire' or equivalent within the first 12 months of his licence in line with Plymouth City Council's Hackney Carriage and Private Hire Vehicle Licensing Policy.

(Councillor Churchill, having declared a personal and prejudicial interest in respect of the above item, withdrew from the meeting.)

## **Licensing Committee (Hackney Carriage)**

**Friday 2 September 2011**

### **PRESENT:**

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

Apologies for absence: Councillors Haydon and Reynolds.

Also in attendance: Ann Gillbanks (Senior Lawyer), Andy Netherton (Principal Environmental Health Officer), Ross Johnston (Democratic Support Officer).

The meeting started at 10.00 am and finished at 12.25 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.*

### 55. **DECLARATIONS OF INTEREST**

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

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

There were no items of chairs urgent business.

### 57. **HACKNEY CARRIAGE AND PRIVATE HIRE FEES 2011-2012**

The committee having -

- (a) considered the report from the Director for Community Services –
- (b) heard from the Principal Environmental Health Officer –
  - (i) that it was the Licensing Departments recommendation that the Committee consider extending the advertisement period from 14 days to 28 days to allow for an extended period of objections to the fees;
  - (ii) that driver test fees were proposed to increase to £83 rather than the reported £63;
- (c) heard from the Hackney Carriage trade representatives that –
  - (i) they were very concerned that Criminal Records Bureau had

reduced the searches required for a taxi driver from enhanced to standard and have sent objections to the Home Secretary over this issue;

- (ii) they had several concerns over the state of taxi ranks in Plymouth and felt that many did not conform with statutory requirements;
- (iii) a Traffic Regulation Order (TRO) on taxi ranks would assist in the enforcement of illegal parking that currently occurred.

Agreed that –

- (1) the new fee structure as set out in the Fees Table, with driver test fees being £83 rather than the reported £63, (Appendix I of the report) is to be advertised in accordance with statutory requirements;
- (2) the period for objections in the advertisements is to be extended to 28 days from 14 days as per the statutory requirements.

58. **PROPOSAL FOR A HACKNEY CARRIAGE TARIFF INCREASE**

The committee having -

- (a) considered the report from the Director for Community Services;
- (b) heard from the Principal Environmental Health Officer that –
  - (i) there was a an agreement between the Licensing Department and the Plymouth Licensed Taxi Association (PLTA) to propose a hackney carriage tariff increase, with the both parties submitting their own proposals;
  - (ii) hackney carriage tariffs had not been increased in over three years despite significant increases in costs associated with taxi driving;
- (c) heard from the Hackney Carriage trade representatives that –
  - (i) their proposed hackney carriage tariff increase included proposals for extra charges from the Rail station, River Tamar toll, carrying of luggage and fuel surcharges;
  - (ii) the request for a hackney carriage tariff increase should not be considered excessive when taking into account associated taxi driver costs including the increase in licence fees, insurance, vehicle maintenance and fuel costs;
  - (iii) hackney carriage fares in Plymouth were very competitive with Plymouth currently lying 33<sup>rd</sup> out of 34 in the licensing areas for

the South West of England in relation to a taxi fare for a two mile journey.

Agreed to –

- (1) approve the table of fares proposed at Appendix 3 of the report subject to the following amendments –
  - (i) fuel - change the reference to £1.40 instead of £1.50 to read “to be added to each hiring if and when fuel oil is £1.40 at Exeter Street garage with a further 10p for each subsequent increase of 10p per litre”;
  - (ii) add an additional paragraph to the ‘Out of city and extended period hirings’ to read “toll charges at current rate for return journey”;
- (2) authorise the advertising of the Tariff agreed in Recommendation 1 as required by the Plymouth City Council Act 1975, and to allow the Tariff to come into effect four weeks after the period allowed for objections, which is 28 days, should no objections be received.

59. **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 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

60. **PROPOSAL FOR A HACKNEY CARRIAGE TARIFF INCREASE**

This item was discussed in conjunction with agenda item 58.

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**CITY OF PLYMOUTH**

**Subject:** Licensed Private Hire Driver Review of Licence Status  
**Committee** Licensing Committee Hackney Carriage  
**Date:** 14 October 2011  
**Cabinet Member:** Glen Jordan  
**CMT Member:** Director for Community Services  
**Author:** George Curness - Taxi Licensing Officer  
**Contact:** Tel: 01752 307964  
Email george.curness@plymouth.gov.uk  
**Ref:** ERS/LIC/GC/pha  
**Key Decision:** No  
**Part:** 1

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**Executive Summary:**

Mr Peter Harold Allen is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 15 August 2005. Mr Allen has continued to renew his Private Hire driver's licence, and this current licence is due to expire on the 14 August 2012.

On 23 August 2011, Mr Allen attended the Licensing desk and surrendered his Private Hire driver's licence and I/D badge and informed the Licensing Office of a disqualification of his DVLA licence imposed by Bodmin Magistrates' Court on 26 July 2011

Mr Allen 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:**

That 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:**

None.

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**Sign off:**

Fin		Leg	SD/2 2.9.1 1/12 870	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											



**Report**

1. Mr Peter Harold Allen is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 15 August 2005. Mr Allen has continued to renew his Private Hire driver's, and this current licence is due to expire on the 14 August 2012.
2. On 23 August 2011, Mr Allen attended the Licensing desk and surrendered his Private Hire driver's licence and I/D badge and informed the Licensing Office of a disqualification of his DVLA licence imposed by Bodmin Magistrates' Court on 26 July 2011. A memorandum of conviction was subsequently obtained from Bodmin Magistrates' court on 9 September 2011, which revealed the information below:

**On 26 July 2011 at Bodmin Magistrates' Court.**

Convicted of driving a motor vehicle on 5 July 2011, namely a Ford Mondeo, registration number SB05FHT on a road, namely the A38, after consuming so much alcohol that the proportion of it in his breath, namely 58 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. Contrary to S5 (1) (a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988

Mr Allen was fined £100 and ordered to pay costs of £85 and a victim surcharge of £15, he was disqualified from driving for 16 months. The disqualification period could be reduced by 16 weeks if Mr Allen successfully completes a course approved by the Secretary of State by 5 June 2012.

An inspection of Mr Allen's DVLA licence reveals no other convictions or fixed penalties.

Members are made aware that at the time of this offence Mr Allen was licensed as a Private Hire driver.

3. A standard condition of licence exists which requires all Private Hire drivers to notify the Council of any convictions received during their licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(c) of the licence requires:-

*The licensed driver to notify the Council's Licensing Unit **in writing** of any conviction in a Court of Law in respect of any Motoring and/or Criminal offences following the grant of a licence, within 7 days.*

Members may consider that Mr Allen has breached this condition of licence, as it would appear that Mr Allen has not complied with this condition within the allotted time.

4. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle for any other reasonable cause.
5. Members are asked to consider whether Mr Allen is a "fit and proper" person in light of the above conviction, and what, if any sanction, needs to be applied to his Private Hire driver licence.

6. In deciding whether Mr Allen 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 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 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 alcohol related offences and motoring offences are relevant when considering the suitability of a person to hold or retain a licence, and includes disqualification from driving a motor vehicle at any time in the five years prior to applying for a licence, the time to run from the expiry of the disqualification.

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

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

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