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Date: 29-08-12

Please ask for: Helen Wright, Democratic Support Officer
T: 01752 304022 E: helen.wright@plymouth.gov.uk

TAXI LICENSING COMMITTEE

Date: Thursday 6 September 2012

Time: 10.00 am

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

Members:

Councillor Haydon, Chair

Councillor Bowie, Vice Chair

Councillors Mrs Foster, Mrs Nicholson, Rennie, Ricketts and Singh.

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.

Bob Coomber
Interim 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 - 4)

To confirm the minutes of the meeting held on 2 August 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 PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - C R DYER

(Pages 5 - 10)

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

7. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - P MARASESCU

(Pages 11 - 18)

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

8. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - M BETEAN

(Pages 19 - 26)

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

9. EXEMPT INFORMATION

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

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the committee 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 27 - 28)

To confirm the minutes of the meeting held on 2 August 2012.

11. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - DDG (E3 AND E7) (Pages 29 - 34)

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

LUNCH 1PM - 2PM

12. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - POB (E3 AND E7) (Pages 35 - 42)

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

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

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

14. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - LAO (E3 AND E7) (Pages 49 - 54)

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

15. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - KJC (E3 AND E7) (Pages 55 - 68)

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

Taxi Licensing Committee

Thursday 2 August 2012

PRESENT:

Councillor Haydon, in the Chair.

Councillor Bowie, Vice Chair.

Councillors Mrs Foster, Mrs Nicholson, Rennie, Ricketts and Singh.

Also in attendance: Steve Forshaw (Licensing Officer), Andrea Gilbert (Lawyer), Mark Small (Licensing Officer) and Helen Wright (Democratic Support Officer).

The meeting started at 10.00 am and finished at 12.05 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.

27. **DECLARATIONS OF INTEREST**

The following declarations of interest were made in accordance with the code of conduct;

Councillor Bowie (minute 36) knew the applicant (personal interest)

Councillor Ricketts (minute 34) knew the applicant (personal interest)

28. **MINUTES**

Agreed that the minutes of the meeting held on 5 July 2012 are confirmed as a correct record.

29. **CHAIR'S URGENT BUSINESS**

With the permission of the Chair, the licensing officer reported that previously AJH had failed to attend two separate committee meetings. The licensing office had been informed that AJH was currently recovering from an illness, following two weeks in intensive care at Derriford Hospital. It was therefore unlikely that he would either be attending a future meeting of the committee or commencing work.

(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 councillors).

30. **APPEAL CASES**

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

31. **EXEMPT INFORMATION**

Agreed that under Section 100A(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 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.

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

Agreed that the minutes of the meeting held on 5 July 2012 are confirmed as a correct record.

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

The committee –

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

The committee agreed to grant MJA's application for a private hire driver's licence subject to him satisfactorily completing all the remaining necessary pre-requisite tests, namely the Knowledge of Plymouth and driving standards test and also completing the VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within the first 12 months of being licensed.

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

The committee –

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

The committee agreed to grant STB's application for a private hire driver's licence subject to her satisfactorily completing all the necessary pre-requisite tests and also completing the VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within the first 12 months of being licensed.

Councillor Ricketts declared a personal interest in the above matter and left the room.

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

The committee –

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

The committee agreed to grant MGL's application for a private hire driver's licence subject to him satisfactorily completing all the necessary pre-requisite tests and also completing the VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within the first 12 months of being licensed.

36. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE OPERATOR'S LICENCE - SLC (E3 AND E7)**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from SLC;
- (c) heard from SLC's representative;
- (d) considered a written statement supplied by SLC.

The committee agreed to adjourn proceedings until planning and other issues have been resolved, as at present, they are not in possession of sufficient information to make a fully informed decision.

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

Councillor Bowie declared a personal interest in the above matter and left the room.

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

The committee –

- (a) considered the report from the Director for Place;
- (b) was advised that POB was not present and that no communication had been received by the licensing office to explain his absence.

The committee agreed that a new request for attendance at the next available committee is sent to POB by recorded delivery; if POB fails to attend the next committee, the matter may be considered in his absence and all possible sanctions against his licence will be considered, including revocation.

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CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status

Committee Taxi Licensing Committee

Date: 6 September 2012

Cabinet Member: Councillor Coker

CMT Member: Anthony Payne, Director for Place.

Author: George Curness - Licensing Officer (Taxis)

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

Ref: PPS/LIC/GC/crd

Key Decision: No.

Part: I

Executive Summary:

Mr Colin Robert Dyer is a Private Hire vehicle driver having been first licensed by this Council on the 1 March 2010. This licence has been periodically renewed and is due to expire on 28 February 2014.

On the 23 July 2012, information was received that indicated Mr Dyer had been disqualified from driving.

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

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities.

In particular: Provide value for Communities.

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

Not applicable.

Other Implications: eg. Child Poverty, 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.

Recommendations and Reasons for recommended action:

It is recommended that the Members consider this matter.

Alternative options considered and reasons for recommended action

None.

Background papers:

Sign off:

Fin		Leg	SD/15383/ 20.8.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											
Have you consulted the Cabinet Member(s) named on the report? No.											

Report

1. Mr Colin Robert Dyer is a Private Hire vehicle driver having been first licensed by this Council on the 1 March 2010. This licence has been periodically renewed and is due to expire on 28 February 2014.
2. On the 23 July 2012, information was received that indicated Mr Dyer had been disqualified from driving. A memo of conviction was requested from Plymouth Magistrates' Court, which was received on 24 July 2012. Details of the motoring conviction and subsequent disqualification are given below:

On 29 June 2012 at Plymouth Magistrates' Court

Mr Dyer was convicted of driving a motor car, namely CY58FOP, on 27 January 2012, on a road, namely Budshead Road, Plymouth at a speed exceeding 30 miles per hour.

Contrary to Road Traffic Regulation Act 1984 S.81(1) and S.89(1) and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Dyer was sentenced to a fine of £60 and ordered to pay costs of £60 and a victim surcharge of £15. His DVLA licence was endorsed with 3 penalty points.

Disqualification was obligatory due to repeat offending (totting), Mr Dyer was disqualified for 6 months, as it would not cause exceptional hardship.

3. At the time of the offence on 27 January 2012, Mr Dyer was a Private Hire driver, 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 shall notify the Council's Licensing Unit **in writing** of any conviction in a Court of Law in respect of any motoring offences, within 7 days. This includes fixed penalty fines and licence endorsements.*

It would appear that Mr Dyer has breached this condition of licence, as there is no trace of him having informed the Licensing Office, in writing, or otherwise, of his conviction on 29 June 2012.

4. The vehicle CY58FOP is a licensed Private Hire vehicle, licence plate number 360, licensed to Mr Dyer at the time of the offence.

5. An inspection of Mr Dyer's DVLA licence reveals two other current endorsements for speeding, on 25 March 2010 and 23 October 2010. It would appear that as 12 penalty points are required when disqualification is considered, Mr Dyer had failed to inform the Licensing Office of a further endorsement of 3 penalty points.
6. Members are asked to consider whether Mr. Dyer is a "fit and proper" person in light of the motoring offences and disqualification contained within this report and the failure to report the conviction in accordance with his licence conditions. In deciding whether Mr. Dyer is a "fit and proper" person, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy.
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 cause.
8. 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.**
2.
 - Consideration of history of convictions and actions,
 - Driver training, qualification and performance,
 - Health and fitness to fulfill the role, and
 - Crime prevention measures.
3. **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 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, for example, no longer a ‘fit and proper’ person.

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

Paragraph 10.2 - Gives the Committee the discretion to direct a driver appearing them to complete further training or re training should the driver’s suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 2 – states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

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

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CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status
Committee Taxi Licensing Committee
Date: 6 September 2012
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne, Director for Place
Author: George Curness – Licensing Officer (Taxis)
Contact: Tel: 01752 307964
Email george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/pm
Key Decision: No
Part: I

Executive Summary:

Mr. Petrisor Marasescu is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 9 September 2009. His current licence is due to expire on 13 September 2012.

On 31 July 2012, during an enforcement patrol, the vehicle driven by Mr Marasescu was found to be un-roadworthy.

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

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities.
In particular: Provide value for Communities.

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

Not applicable.

Other Implications: eg. Child Poverty, 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.

Recommendations and Reasons for recommended action:

That Members of the Licensing Committee consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

None.

Sign off:

Fin		Leg	SD/15385/ 20.8.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											
Have you consulted the Cabinet Member(s) named on the report? No.											

Report

1. Mr. Petrisor Marasescu is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 2 September 2009. His current licence is due to expire on 13 September 2012.
2. On 31 July 2012, during an enforcement patrol, the vehicle driven by and licensed to Mr Marasescu was found to be un-roadworthy.
3. The details of the inspection are as follows,

The front driver's side tyre was found to be worn to excess. A photo of the tyre is reproduced at the end of this report as appendix 1.

4. The vehicle licence was immediately suspended, the work was completed and the suspension was lifted the same day. The suspension notice is reproduced at the end of this report as appendix 2.
5. Members are made aware that, as the owner, licensee and sole driver of vehicle licence number 1314, Mr Marasescu is responsible for its road worthiness. The fault on the tyre can be plainly seen on the outside of the wheel, and indicates that Mr Marasescu has a lack of regard to the safety of his passengers and to the rules that are attached to vehicles and their maintenance.
6. Members are made aware vehicles driver by Mr Marasescu's have been inspected by licensing officers on other occasions.

On 22 June 2011, licence number 1314, was found to have a space saver tyre on the rear offside of the vehicle, this is not permitted for public use, and a suspension notice issued, in accordance with condition 11 of the Specifications for Private hire Vehicles which states that, "if a vehicle is equipped with a space saver spare tyre or similar emergency repair system, it may only be used to get the vehicle to a location for the tyre to be changed for a full sized tyre". It is not permitted to carry passengers using a space saver tyre. The suspension was lifted on 23 June 2011. Failure of the vehicle to comply with the above specifications is a breach of condition 1 of the Private Hire conditions of vehicle licence.

On 20 April 2011, a private hire vehicle, licence number 1372, was inspected and found to have no faults

On 22 October 2010, a private hire vehicle,, licence number 1372 was inspected and found to have no washers working, there was no "bulb kit" available and the vehicle had a dirty interior. The faults were rectified on the 25 October 2010.

On 28 October 2009, a private hire vehicle, licence number 1188, was inspected and found to have no number plate lamps and 2 x body damage. The licence faults were rectified the same day.

Mr Marasescu is the sole driver of these vehicles.

7. Members are asked to consider whether Mr Marasescu is a “fit and proper” person and whether any action should be taken against his Private Hire driver’s licence in light of the lack of maintenance of the vehicles that he drives.
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 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”.

Paragraph 8.2 - requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, 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.

10. Members are made aware that Mr Marasescu has completed the BTec in Transporting Passengers by Taxi and Private Hire
11. Mr Marasescu has been invited to attend this Licensing Committee in order that this matter may be considered.



THIS NOTICE HAS IMMEDIATE EFFECT



Plymouth MALASCOU

Plymouth City Council Act 1975
Environmental Regulations Service – Licensing Section

Driver / Proprietor: * PHILIP PERISSON

Address:

The following vehicle of which you are the driver / proprietor* was inspected pursuant to the provisions in section 26 of the Plymouth City Council Act 1975:

Plate no. 1314 VRM: 7654 SN7

At (time): 10.00 hrs, on 31.7.12

At (place): BAMOUTH RD

And I am not satisfied as to:

1. Its fitness as a licensed vehicle by reason of the following defects:

(a) W/SLA TYRE SHOWING

(b) COLD ON OUTER EDGE

(c) (Photo)

(d)

(e)

(f)

2. The accuracy of its taximeter.

I therefore give you notice pursuant to section 26 of the Plymouth City Council Act 1975:

(1) *That the above defects be rectified within days of the issue of this notice, and the vehicle presented to the issuing officer for further examination.

(2)*That the vehicle / taximeter must be made available for further inspection at a council approved registered test station for further testing by an authorised vehicle examiner as to its fitness / accuracy.

(3)*That the vehicle licence is **IMMEDIATELY SUSPENDED** (see Important Note 3 overleaf)

Signed: [Signature]

Issued by: [Signature]

For * Head of Environmental Regulations Service
* Chief Constable

IMPORTANT NOTES

- (1) If an unfit vehicle is used as a Hackney Carriage or Private Hire vehicle, the licence is liable to be **SUSPENDED** or **REVOKED**, and the driver may be prosecuted.
- (2) If the vehicle is not satisfactorily tested within **2 months** the vehicle licence shall be revoked by virtue of section 26 of the Plymouth City Council Act 1975, and that section 18 sub-sections 2 and 3 shall apply.

* Delete as applicable

Continued overleaf

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CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status
Committee Taxi Licensing Committee
Date: 6 September 2012
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne, Director for Place
Author: Mark Small - Taxi Licensing Officer
Contact: Tel: 01752 307984
Email: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MS/mb
Key Decision: No
Part: I

Executive Summary:

Mr Marius Betean is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on 18 November 2008. This licence has been subject to periodic renewal and the current licence is due to expire on the 17 November 2012.

On Monday 9 July 2012 officers noted from a newspaper report that Mr Betean had been convicted of an offence of Beating. On the 19 July Mr Betean informed the licensing section of his offence, in writing.

As Mr Betean has been convicted of an offence involving violence, officers are now seeking a review of the status of his private hire driver licence, and he has been invited to this Committee meeting in order for this matter to be considered.

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities. In particular:

Provide value for communities.

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

Not applicable.

Other Implications: eg. Child Poverty, 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.

Recommendations and Reasons for recommended action:

It is recommended that the Members consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

None.

Sign off:

Fin		Leg	SD/15379/ 20.8.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											
Have you consulted the Cabinet Member(s) named on the report? No.											

Report

1. Mr Marius Betean is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on 18 November 2008. This licence has been subject to periodic renewal and the current licence is due to expire on the 17 November 2012.
2. On Monday 9 July 2012 officers noted from a newspaper report that Mr Betean had been convicted of an offence of Beating. On the 19 July 2012 Mr Betean informed the licensing section of his offence, in writing, and also enclosed correspondence from the Court relating to his conviction. A copy of his letter is reproduced with this report as appendix A.

The court documents reveal that he was convicted on 6 July 2012 at Plymouth Magistrates court for two offences of Assault by Beating, for which he was sentenced to a community service order for 60 hours, to be completed within 12 months, on both counts, the second to run concurrently with the first and ordered to pay compensation of £750 and costs of £200.

The offences were that on 5 November 2011 at Plymouth, he –

Assaulted James Hickman by beating him. Contrary to section 39 of the Criminal Justice Act 1988.

Assaulted Oscar Daws by beating him. Contrary to section 39 of the Criminal Justice Act 1988.

3. Members are asked to consider whether Mr Betean is a “fit and proper” person in light of the above conviction, and determine what, if any sanction, needs to be applied to his Private Hire driver licence.
4. The actions open to Members are those contained in Section 19(1) (a) and (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 if since the grant of the licence he has been –
 - (a) convicted of an offence involving violence, or for
 - (b) any other reasonable cause.
5. In deciding whether Mr Betean 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 10.1 – States that a disciplinary hearing is for any matter concerning the breach of any licence condition or statutory regulation that may require a sanction being sought against any licence, and is determined by the Taxi Licensing Committee.

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 offences involving violence are relevant offences for considering the suitability of a person to hold or retain a licence.

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

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

18.07.2012



To Private Hire Licensing Office – Plymouth City Council

My name is Marius Betean of 9 Melbourne Street, Plymouth and my Private Hire Licence number is **PHDL2549** which is due to expire on 17th of November this year.

I would like to inform that in 6th of July this year I was found guilty of *Assault* and convicted to *60 hours of unpaid work* and *950 pounds* in compensations and Court charges. I was waiting for the sentence letter from The Magistrates Court, which you will find it next to this letter, official paper that I got it on Friday 14th of July 2012, 4 days ago.

The reason of this conviction it's an incident back in November 2011 when I was attacked during my shift, in my taxi, by 2 drunk males but unfortunately The Court decided that it was not a "Self-defence" matter and they decided I was the one who attacked them, even they came to my car door, they opened the door and tried to pull me out from the car and most of all I did not punched or hit any of them at all but I just pulled down to the ground one of them, to put an end to their attack.

During the trial I was told that the correct action, when someone opens your taxi door, when is trying to grab you and pull you out from the car and is to call the Police and no other action at all, no matter how dangerous look the situation in that moment so I was told it was a bad call at that moment.

I was given no chance during the 7 hours trial and sadly, this verdict will affect the rest of my life from now on! Of course, I can explain the incident in details whenever you will give me the opportunity to do so if you wish so.

Please take in consideration that I already started to do my Community Unpaid Work and I will start paying the compensations but if you will decide to revoke my licence I will be unable to pay the compensations and Court charges

as I have no savings or benefits at all and most likely I will have no choice other than to leave this Country, after 4 years of hard work, following the rules and without having any problems at all.

I am ready to come in front of a Licencing Committee if necessary and explain that The Court's verdict was completely unfair and based on no evidence at all but was nothing I could do, although me and my solicitor we tried very hard to show to The Court that I was the victim in this incident. The verdict I got is very strange as it is under the minimum penalty for that charge and the amount of compensation is double than the amount requested by Prosecution, in fact is double than the "victims" actually requested during the trial!

Therefore, I would like you to take into consideration the fact that I've been working in this City since 2008, for the same company (TaxiFast & TaxiFirst) and I never had any problems with the law, not even any endorsements on my driving licence and I want to keep my private-hire licence and carry on working. Also, I would like to inform you that I have the full support of TaxiFirst management, people who know what kind of person I am and I have no problem working with them as long as I will have a licence.

I really hope that at least at the Licensing Office I can get a fair judgement and I will keep my license and also I will get a chance to prove that I am not a violent person at all, I never been so far and I won't be from now on.

Thank you very much!

Kind regards,

Marius Betean

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