



Tracey Lee
Chief Executive

Plymouth City Council
Civic Centre
Plymouth PL1 2AA

Please ask for Helen Wright, Democratic
Support
T 01752 304022
E helen.wright@plymouth.gov.uk
www.plymouth.gov.uk/democracy
19 March 2013

TAXI LICENSING COMMITTEE

Thursday 28 March 2013
10am
Council House, Plymouth (Next to the Civic Centre)

Members:

Councillor Haydon, Chair
Councillor Bowie, Vice Chair
Councillors Rennie, Mrs Nicholson, Singh, Mrs Foster and Ricketts.

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

Tracey Lee
Chief Executive

TAXI LICENSING COMMITTEE

AGENDA

PART I – PUBLIC MEETING

1. APOLOGIES

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

1. 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 28 February 2013.

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 - N L JORDAN (Pages 7 - 12)

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

7. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - D S GILBERY (Pages 13 - 18)

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

8. LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - F J MARTIN (Pages 19 - 24)

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

**9. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE (Pages 25 - 30)
STATUS - P SICH**

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

LUNCH 1PM - 2PM

10. 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 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.

**11. LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF (Pages 31 - 36)
LICENCE STATUS - MAS (E3 AND E7)**

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

**12. APPLICATION FOR THE GRANT OF A PRIVATE HIRE (Pages 37 - 40)
DRIVER'S LICENCE - KCJ (E3 AND E7)**

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

**13. APPLICATION FOR THE GRANT OF A HACKNEY (Pages 41 - 46)
CARRIAGE DRIVER'S LICENCE - BLS (E3 AND E7)**

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

**14. APPLICATION FOR THE GRANT OF A PRIVATE HIRE (Pages 47 - 52)
DRIVER'S LICENCE - ACH (E3 AND E7)**

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

This page is intentionally left blank

Taxi Licensing Committee

Thursday 28 February 2013

PRESENT:

Councillor Haydon, in the Chair.

Councillor Bowie, Vice Chair.

Councillors Fry (Substitute for Councillor Mrs Foster), Mrs Nicholson, Rennie and Singh.

Apologies for absence: Councillors Mrs Foster and Ricketts.

Also in attendance: George Curness (Licensing Officer am only), Sharon Day (Legal Officer), Steve Foreshaw (Licensing Officer pm only) and Helen Wright (Democratic Support Officer).

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

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

110. DECLARATIONS OF INTEREST

In accordance with the code of conduct the following declarations of interest were made by Members –

Name	Reason	Interest
Councillor Rennie (Minute 120)	Knew the applicant	Personal
Councillor Sing (Minute 123)	Involvement with BTCV	Personal

111. MINUTES

Agreed the minutes of the meeting held on 24 January 2013 are confirmed as a correct record.

112. CHAIR'S URGENT BUSINESS

The Chair reported that with regard to the Cornwall Street taxi rank review, both himself and the Vice Chair had met with officers and the Portfolio Holder and it had been agreed that this matter would be put out to consultation within the next couple of months.

The issue of regularly meetings with the Chair, Portfolio Holder and the trade had not been raised at this meeting but Councillor Haydon undertook to follow this matter up.

(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).

113. **APPEAL CASES**

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

Order of Business

With the permission of the Chair, the order of business on the agenda was amended, as set out below in the minutes.

114. **LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - J S HIGGS**

The committee -

- (a) considered the report from the Director for Place;
- (b) heard from Mr Higgs that his failure to report the conviction had been an oversight and had not been done intentionally; his wife had been ill and due to the difficult family circumstances at the time of the conviction he had failed to inform the council;
- (c) took the following into consideration –
 - that Mr Higgs had been a hackney carriage driver since 19 December 2003 having been a private hire driver since prior to December 2000;
 - Mr Higgs' current licence was due to expire on 21 December 2013;
 - during the renewal of Mr Higgs' licence in December 2013, it was noted that he had been convicted on 16 October 2012 for speeding; he had been fined 300 and had his DVLA licence endorsed with three penalty points;
 - Mr Higgs currently had three penalty points on his licence;
 - it was a requirement of Byelaw 11 of the Hackney Carriage Byelaws that a hackney carriage driver was required to notify the council of any motoring conviction within seven days of conviction; Mr Higgs did not notify the council as required by the Byelaw;
 - the three character references provided by Mr Higgs;

- all that was said by Mr Higgs;
- (d) was concerned that Mr Higgs had failed to report the conviction in accordance with the Hackney Carriage Byelaws but had taken into account his personal circumstances and mitigation.

The committee agreed to suspend Mr Higgs Hackney Carriage driver's licence under section 19(1)(b) of the Plymouth City Council Act 1975 for a period of one day in respect of his failure to report the conviction as this did not show a commitment to work with the licensing authority which is a relevant consideration under the licensing objective of preventing crime and disorder and protecting consumers.

115. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - P SICH**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from the licensing officer that Mr Sich had failed to attend this meeting.

The committee agreed that the matter is adjourned to the next committee and that a letter is sent to Mr Sich informing him that if he failed to attend the next committee the matter would be dealt with in his absence.

116. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - C SZIKSZAI**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from the licensing officer that Mr Szikszai was not present and had left the country for an unknown period of time and that his licence was due to expire in a few days.

The committee agreed that if Mr Szikszai returns to the UK and re-applies for a private hire or hackney carriage driver's licence, officers are required to refer the matter to the Taxi Licensing Committee for considerations as to whether or not to grant the licence and at that time the information contained within the report is brought to members' attention.

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

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

Agreed that the minutes of the meeting held on 24 January 2013 are confirmed as a correct record.

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

The committee –

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

The committee agreed to grant AKC's application for a private hire driver's licence subject to him satisfactorily completing the VRQ driver qualification in 'Transporting Passengers by Taxi or Private Hire' or equivalent within the first 12 months of being granted the licence.

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

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from KJ and his representative.

The committee agreed to grant KJ's application for a private hire driver's licence subject to him completing all the pre requisites for the grant of a licence (due to the length of time he has been out of the trade) and also subject to him completing the VRQ driver qualification in 'Transporting Passengers by Taxi and Private Hire' or equivalent within the first 12 months of being granted the licence.

(Councillor Rennie declared a personal interest in this matter)

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

The committee –

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

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

(Note: Councillor Rennie voted against the grant of this application)

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

The committee –

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

The committee agreed to grant EKB's application for the grant of a hackney carriage driver's licence subject to him completing all the pre requisites for the grant of a licence and also subject to him completing the VRQ driver qualification in 'Transporting Passengers by Taxi or Private Hire' or equivalent within the first 12 months of being granted the licence.

(Note: Councillors Fry and Rennie voted against the grant of this application)

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

The committee –

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

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

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

This page is intentionally left blank

Plymouth City Council

Subject: Review Status of Hackney Carriage Driver's Licence
Committee: Taxi Licensing Committee
Date: 28 March 2013
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne (Director for Place)
Author: Mark Small (Taxi Licensing Officer)
Contact: Tel: 01752 307984
e-mail: mark.small@plymouth.gcsx.gov.uk
Ref: ERS/LIC/MTS/njl
Key Decision: No
Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Hackney Carriage drivers licence held by Miss Nicola Louise Jordan, having due regard for the information contained within the report, any representations made by her and the Taxi Licensing Policy of the Council.

Corporate Plan 2012 - 2015 as amended by the four new priorities for the City and Council:

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: e.g. 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.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

That Members of the Taxi Licensing Committee consider this report.

Alternative options considered and rejected:

None.

Published work / information:

None.

Background papers:

None.

Sign off:

Fin		Leg	SD/I 2.3.1 3/16 838	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

Report

1. Nicola Louise Jordan is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by this Council on 28 August 2009. Her current licence is due to expire on 27 August 2013.
2. On the 23 November 2012 Nicola Jordan informed the Licensing Section in writing in a letter dated the 21 November 2012 that she had been convicted of a motoring offence on 9 November 2012.
3. On 9 January 2013 a memorandum of conviction was requested from Plymouth Magistrates Court who supplied the information below.

On 9 November 2012 at South and West Devon Magistrates Court

Convicted of Exceeding the Speed Limit on a Public Road, namely Gydnia Way Plymouth on 23 December 2011.

She was fined £60 and her licence was endorsed with three penalty points.

4. Miss Jordan has 12 live penalty points endorsed on her DVLA driver licence and in ordinary circumstances Miss Jordan would have been disqualified from driving. Miss Jordan pleaded that disqualification would cause her exceptional hardship and the Magistrates found in her favour allowing her to retain her DVLA driving licence.
5. On 9 October 2011 Miss Jordan had her hackney carriage vehicle licence suspended in respect of the vehicle having two defective tyres. One tyre was showing cord, the other had approximately half the minimum tread depth as required by law. The Taxi Licensing Officer issued a prohibition notice suspending the vehicle licence until such time as the defects were rectified. The vehicle defects were rectified on 11 October and the licence was re-instated.
6. In August 2011 Miss Jordan was issued with a warning letter for failing to comply with byelaw 11 below.
7. Byelaw number 11 of the Plymouth City Council Hackney Carriage Byelaws 2009, requires the driver of a hackney carriage to notify the Council in writing within 7 days of a conviction or motoring fixed penalty endorsement. It should be noted that the conviction was received on 9 November and the letter sent by Miss Jordan is dated as 21 November 2012, this is outside the time period required by the Byelaws for reporting the conviction. In her letter Miss Jordan apologised for the delay in notification.
8. In respect of the Hackney Carriage driver licence, 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 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 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy 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 where a breach of 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, 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.

Guidelines on the Relevance of Convictions

Paragraph 1 - states that the disclosure of a Criminal Record will not automatically prevent any applicant from obtaining a licence, unless it is considered that the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

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

Paragraph 8 – States that any driver who receives a conviction within their license 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.

10. Miss Jordan has been invited to attend this Licensing Committee in order that the matters contained within this report may be considered.

This page is intentionally left blank

Plymouth City Council

Subject: Licensed Private Hire Driver – Review of Licence Driver Status

Committee: Taxi Licensing Committee

Date: 28 March 2013

Cabinet Member: Councillor Coker

CMT Member: Anthony Payne (Director for Place)

Author: Mark Small (Taxi Licensing Officer)

Contact: Tel: 01752 307984

e-mail: mark.small@plymouth.gcsx.gov.uk

Ref: ERS/LIC/MTS/dsg

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr David Stephen Gilbery, having due regard for the information contained within the report, any representations made by him and the Taxi Licensing Policy of the Council.

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: e.g. 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.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

That Members of the Taxi Licensing Committee consider this report.

Alternative options considered and rejected:

None.

Published work / information:

None.

Background papers:

None.

Sign off:

Fin		Leg	SD/I 2.3.1 3/16 840	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

Report

1. David Stephen Gilbery is a licensed Private Hire driver, having been first granted a driver's licence by this Council on 21 November 2003. This licence was subject to periodic renewal until he transferred to a Hackney carriage driver licence on the 17 September 2007. This licence expired without renewal on the 20 November 2007. Mr Gilbery re-applied for a Private Hire driver licence which was granted on 7 November 2008 and his current licence is due to expire on 11 December 2013.
2. On the 12 December 2012 David Gilbery attended an appointment at the Civic Centre to renew his Private Hire driver licence and completed a renewal of licence application form for that purpose. Section 3 of that form requires the disclosure of any previous convictions, and in the space provided Mr Gilbery has entered information relating to motoring convictions he received in August 2009 and December 2010. Below this disclosure the following question is asked; **'Has/have this/these offence(s) previously been reported to the licensing section?'** Following this question two boxes are supplied to indicate an answer, a box for 'Yes' and a box for 'No'. Mr Gilbery has placed a cross in the 'Yes' box indicating this to be his answer.
3. When Mr Gilbery attended his appointment to renew his licence he produced his DVLA driving licence for examination, which revealed the following endorsements:

Convicted on 10 August 2009 for an offence of exceeding the speed limit on 02 February 2009. He was fined £60 and his licence endorsed with three penalty points.

Convicted on 17 December 2010 for an offence of exceeding the speed limit on 12 June 2010. He was fined £350 and his licence endorsed with four penalty points.

Mr Gilbery therefore has four live penalty points endorsed on his DVLA licence.
4. An examination of the driver file belonging to Mr Gilbery revealed that the speeding conviction received on the 10 August 2009 had been notified to the licensing section on 24 September 2009. However, there is no record of the conviction on the 17 December 2010 being notified as required by condition of licence.
5. There are standard conditions attached to the grant of a Private Hire driver licence for all licence holders. Condition 1(c) requires the licence holder to notify the Licensing Unit in writing within 7 days of receiving a conviction in a court of law in respect of any motoring offences following the grant of a licence. It would appear that this condition of licence has been breached by the failure of Mr Gilbery to inform the Licensing Unit of the motoring conviction received on the 17 December 2010 and the late notification of the August 2009 conviction.

6. Members are made aware that during his term as a licence holder, Mr Gilbery has appeared before the committee on the 19 July 2005 and 20 December 2005 in respect of failing to comply with licensing conditions for which his private hire driver's licence was suspended on each occasion. He had also been due to appear before the committee in respect of further breach of licence conditions in November 2007 but Mr Gilbery failed to attend and his licence subsequently expired without renewal and so the matter was not progressed.
7. In respect of the Private Hire driver licence, 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 Private Hire vehicle for any other reasonable cause.
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 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy 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 where a breach of 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, 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.

Guidelines on the Relevance of Convictions

Paragraph 1 - states that the disclosure of a Criminal Record will not automatically prevent any applicant from obtaining a licence, unless it is considered that the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

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

Paragraph 8 – States that any driver who receives a conviction within their license 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 Gilbery obtained the NVQ Level 2 driver qualification in 2009.
10. Mr Gilbery has been invited to attend this Licensing Committee in order that the matters contained within this report may be considered.

This page is intentionally left blank

PLYMOUTH CITY COUNCIL

Subject: Licensed Hackney Carriage Driver – Review of Driver Licence Status

Committee: Taxi Licensing Committee

Date: 28 March 2013

Cabinet Member: Councillor Coker

CMT Member: Anthony Payne (Director for Place)

Author: Steve Forshaw – Licensing Officer (Taxis)

Contact: Tel. 01752 304744
e-mail Steve. Forshaw @plymouth.gov.uk

Ref: ERS/LIC/SF/Fjm

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Hackney Carriage drivers licence held by Mr Francisco Javier MARTIN, having due regard for the information contained within the report, any representations made by Mr MARTIN and the Taxi Licensing Policy of the Council.

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: e.g. 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.

Equality and Diversity

Has an Equality Impact Assessment been undertaken - No

Recommendations and Reasons for recommended action:

That Member of the Licensing Committee consider this report.

Alternative options considered and rejected

None.

Published Work/Information

None

Background papers:

None

Sign off:

Fin		Leg	AZG/15.3.13/ 17087	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

Report

1. Mr Francisco Martin is a Hackney Carriage driver, first licensed by this Council as a Private Hire driver in April 2003. He transferred to Hackney Carriage on 3 June 2004, and has periodically renewed this licence until the present. His current licence is due to expire on 5 March 2013.
2. On about 15 January 2013, the taxi licensing office received a letter from Mr Martin giving notification that he had received a motoring conviction. The letter explains that he was going through an appeal process at Plymouth Crown Court on 4 January 2013 against the conviction for 'Totting up'. The fine of £50.00 previously imposed at Plymouth Magistrates Court was upheld and the suspension of his DVLA licence was waived as the court accepted his submission of exceptional hard ship.
3. A Court memo of convictions was requested and received on 17 January 2013 and the following facts are identified:

On 30 October 2012 at Plymouth Magistrates' Court,

Mr Martin was convicted for exceeding a 30 Mph speed limit on a restricted road. He was sentenced and ordered to pay a fine of £35.00 by 30 December 2012 and pay £15:00 victim surcharge. Defendant's guilty plea taken into account when imposing sentence.

Disqualified from driving for 6 months under S.35(1) of The Road Traffic Offenders Act 1988. Disqualified for holding or obtaining a licence for 6 months. Disqualification obligatory due to repeat offending. Licence or counterpart endorsed (3 penalty point determined). Defendant's guilty plea taken into account when imposing sentence. Exceptional hardship not found. Disqualification suspended pending appeal.

An appeal hearing against sentence was heard on 4 January 2013. It was ordered that the appeal against sentence be allowed and the sentence be varied as follows:

To pay a fine of £35.00, the defendants guilty plea taken into account when imposing a sentence.

No order to pay costs due to a lack of means.

To pay £15.00 towards the costs of the prosecution and to be paid to HMCTS – victim surcharge, Newport Gwent.

Licence endorsed; 3 penalty points. No disqualification under S. 35(1) of the Road Traffic Offenders Act 1988; mitigating circumstances.

4. On 4 March 2013, during the renewal process of his Hackney Carriage driver's licence it was noted that he had received motoring convictions. The details of the offence taken from the DVLA licence are,

Mr Martin was convicted of Exceeding the Statutory Speed Limit on a Public Road on 6 January 2012. Mr Martin had his DVLA counterpart endorsed with 3 penalty points by means of a fixed penalty.

On 22 January 2012 Mr Martin was convicted of Exceeding the Statutory Speed Limit on a Public Road. Mr Martin had his DVLA counterpart endorsed with 3 penalty points by means of a fixed penalty.

On 30 October 2012 at Plymouth Crown Court,

Mr Martin was convicted of Exceeding the Statutory Speed Limit on a Public Road on 18 April 2012 he was fined £35.00 and had his DVLA counterpart endorsed with 3 penalty points.

Mr Martin currently has 9 points on his DVLA driver's license.

At the time of the above conviction Mr Martin was licensed as a Hackney Carriage driver and as such, is governed by the Plymouth City Council Hackney Carriage Bye Laws for such drivers, which were made by virtue of Section 68 Town Police Clauses Act 1847.

5. Bye Law 11 states that

If a Hackney Carriage driver is convicted in a Court of Law of any Motoring Offence including fixed penalties, the driver shall notify the Council IN WRITING within 7 days of the conviction.

The Hackney Carriage Bye-Laws became effective on 14 July 2009 and were posted to all Hackney Carriage drivers, to remind them of their duties.

Mr Martin has breached this Bye-Law as he has failed to notify the Council as required.

6. Members are asked to consider whether Mr Martin is a 'fit and proper' person in light of the above conviction and possible breach of bye-law, and determine what, if any sanction, should be applied to his Hackney Carriage driver licence.
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. 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 see below)
- Previous history as a licence holder

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 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 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 motoring offences 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.

9. Members are made aware that Mr Martin has not completed the qualification in Transporting Passengers by Taxi and Private Hire.
10. Mr Martin has been invited to attend this Licensing Committee in order that this matter may be considered.

PLYMOUTH CITY COUNCIL

Subject: Licensed Private Hire Driver – Review of Driver Licence Status

Committee: Taxi Licensing Committee

Date: 28 February 2013

Cabinet Member: Councillor Coker

CMT Member: Anthony Payne (Director for Place)

Author: George Curness – Licensing Officer (Taxis)

Contact: Tel. 01752 307964
e-mail george.curness@plymouth.gov.uk

Ref: ERS/LIC/GC/ps

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr Petr Sich, having due regard for the information contained within the report, any representations made by Mr Sich and the Taxi Licensing Policy of the Council.

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: e.g. 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

Has an Equality Impact Assessment been undertaken - No

That Members of the Licensing Committee consider this report.

None.

None

None

Fin		Leg	SD/24.1.13/1 6682	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

Report

1. Mr. Petr Sich is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 23 February 2007. At the time of writing this report his current licence is due to expire on 22 February 2013.
2. On 26 November 2012, a letter was received from Mr Sich informing the Licensing Office of a conviction in a Magistrates' Court. The details of the offence taken from the DVLA licence are,

On 30 October 2012 at Newton Abbott Magistrates' Court,

Mr Sich was convicted of Exceeding the Statutory Speed Limit on a Public Road on **11 April 2012**.

Mr Sich was sentenced to a fine of £300 and his DVLA counterpart was endorsed with 3 penalty points. Mr Sich would have had to pay a victim surcharge of £15.

Mr Sich currently has 6 penalty points on his UK DVLA counterpart.

3. On the 31 March 2011, Members considered two convictions received by Mr Sich on the 10 November 2010 which related to using a mobile telephone on 30 August 2010, for which he was fined £50 and had his UK counterpart licence endorsed with 3 penalty points and using a vehicle with a defective tyre on 30 August 2010 for which he was fined £100. On this occasion the committee decided to issue Mr Sich with a warning. Mr Sich was warned that this may be taken into account at any future hearing.
4. Standard condition of licence number 1(c) requires drivers of Private Hire vehicles to notify the Licensing Unit in writing of any conviction in a court of law in respect of any motoring offences following the grant of a licence within 7 days. Mr Sich has stated in a letter to this office that he could not comply with this condition because he was out of the country when the notification letter was sent to his home address. A copy of that letter is reproduced as Appendix A.
5. Members are asked to consider whether Mr Sich is a 'fit and proper' person in light of the above conviction and possible breach of licence condition, and determine what, if any sanction, should be applied to his Private Hire driver licence.
6. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle for any other reasonable cause.
7. 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 see below)
- Previous history as a licence holder

Paragraph 18.2 requires that in considering whether a person is no longer a ‘fit and proper’ person 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 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 Licensing Committee (Hackney Carriage)

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

Guidance on the Relevance of Convictions

Paragraph 1 – States that the disclosure of a criminal record or other information will not automatically prevent any applicant from obtaining a licence, unless the council considers the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - States that motoring offences are relevant offences 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.

8. Members are made aware that Mr Sich has not completed the qualification in Transporting Passengers by Taxi and Private Hire.
9. Mr. Sich has been invited to attend this Licensing Committee in order that this matter may be considered.

Appendix A

**Public Protection Service
Licensing Section
Floor 6 Civic Centre
Plymouth
PL1 2AA**

**Licence number: 2268
Date: 21.11.12**

Sirs,

**I would like to inform you about change in my Counterpart Driving Licence
(copy attached)**

**The change is dated 30.10.12 but the Counterpart with my driving licence
was delivered to my address between 5th and 14th November when I was
in the Czech Republic. Itinerary included
That's why I could not let you know within 7 days of receiving**

**Many thanks for unedrstanding
Kindness regards
Petr Sich**

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank