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25 June 2013

TAXI LICENSING COMMITTEE

Thursday 4 July 2013
10am
Council House, Plymouth (Next to the Civic Centre)

Members:

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

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.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

(Pages 1 - 6)

To confirm the minutes of the meeting held on 30 May 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. RESTRICTED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - A M STEVENS

(Pages 7 - 10)

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

7. RESTRICTED PRIVATE HIRE DRIVER - REVIEW OF DRIVER/OPERATOR LICENCE STATUS - J OWEN

(Pages 11 - 16)

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

8. EXEMPT INFORMATION

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following 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.

9. CONFIDENTIAL MINUTES (E3 AND E7) (Pages 17 - 20)

To confirm the confidential minutes of the meeting held on 30 May 2013.

10. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - LMT (E3 AND E7) (Pages 21 - 26)

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

LUNCH 1PM - 2PM

11. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - PAK (E3 AND E7) (Pages 27 - 32)

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

12. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - SPF (E3 AND E7) (Pages 33 - 38)

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

13. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - HAW (E3 AND E7) (Pages 39 - 46)

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

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Taxi Licensing Committee

Thursday 30 May 2013

PRESENT:

Councillor Haydon, in the Chair.

Councillor Bowie, Vice Chair.

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

Also in attendance: George Curness (Licensing Officer) (AM only), Andrea Gilbert (Legal Officer), Steve Forshaw (Licensing Officer) (PM only) and Helen Wright (Democratic Support Officer).

The meeting started at 10.00 am and finished at 4.40 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.

1. TO NOTE THE APPOINTMENT OF CHAIR AND VICE-CHAIR

The committee noted the appointment of Councillor Haydon as Chair and Councillor Bowie as Vice-Chair.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

Agreed that the minutes of the meeting held on 18 April 2013 are confirmed as a correct record.

4. CHAIR'S URGENT BUSINESS

The Chair sought to provide an update on the Hackney Carriage Rank Review for Cornwall Street.

5. APPEAL CASES

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

6. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - J P STEVENS**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from Mr Stevens and his legal representative;
- (c) took into account that –
 - Mr Stevens reported these convictions correctly and within the prescribed time;
 - Mr Stevens pleaded guilty at the earliest possible opportunity to the offences;
 - Mr Stevens was very remorseful and had been open and honest with the licensing department and the committee and said these offences would not be repeated;
 - Mr Stevens had already received a considerable fine from the magistrate's court in respect of these offences together with a driving disqualification for a period of six months;
 - Mr Stevens had said that he committed the offences and because he had been foolish and naïve and also because his licensed vehicles were faulty and he had commitments to customers that he needed to honour; in addition, he spent considerable sums on repairing the faulty vehicles and as a result he claimed that he had been under financial pressure;
 - if Mr Stevens lost his operator's licence, then other employees might suffer as a result;
 - all customers interviewed in the course of this investigation reported that the service they received was efficient and professional;
 - all vehicles and drivers were now correctly licenced;
 - Mr Stevens said he had been driving for 20 years with no convictions before this incident came light.

Members were concerned that –

- despite his experience as a private hire operator, Mr Stevens used a vehicle which he knew to be unlicensed and uninsured and allowed others to do the same on many occasions; he also used a further vehicle which he knew to be uninsured;

- Mr Stevens sent out a driver to pick up passengers for long journeys who had not been vetted by the Council to ensure that he was a fit and proper person;
- Mr Stevens comments had given rise to concerns that he was not conversant with the rules of the private hire trade but as an operator the committee considered he should be;
- Mr Stevens gave the majority of the jobs which he could not honour to other companies but did not offset all of them which would have been advisable;
- on at least two occasions, he personally drove the unlicensed and uninsured vehicle.

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 and also the holder of an operator's licence for any other reasonable cause, under s19(1)9(b) and s20(1) PCCA 1975 respectively.

The first of the licensing objectives contained in the Hackney Carriage and Private Hire Driver's Licensing Policy required members to promote the safety and health of drivers and the public.

Customers paid considerable sums to be driven long distances and did so in the belief that the drivers taking them were properly qualified and vetted and that the cars they travelled in were properly licensed, insured and safe; in many cases that was unfortunately not true.

The committee consider that Mr Stevens allowed his financial concerns to take priority over the safety of his passengers and the general public and have agreed that in respect of his operator's licence it is a proportionate decision to find him no longer a fit and proper person and therefore revoke his private hire operator's licence.

After considering all the evidence, in respect of Mr Stevens private hire driver's licence, the committee agreed to issue him with a severe warning.

7. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - A M STEVENS**

The committee agreed that in light of the previous decision to revoke the private hire operator's licence it was fair to adjourn Mrs Stevens hearing to the next available meeting.

8. **EXEMPT INFORMATION**

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

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

Agreed that the minutes of the meeting held on 18 April 2013 are confirmed as a correct record.

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

The committee –

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

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

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

Due to PAK's non-attendance at committee, Members agreed that his application for the grant of a private hire driver's licence is held on file until such time as he contacts the licensing department.

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

The committee -

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

The committee agreed to follow its own policy guidelines and refuse TJB's application for a private hire driver's licence as it does not consider him to be a fit and proper person at this stage.

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

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

The committee –

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

The committee agreed to follow its own policy guidelines and refuse MJW's application for the grant of a private hire driver's licence as it does not consider him to be a fit and proper person at this stage.

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

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PLYMOUTH CITY COUNCIL

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

Committee: Taxi Licensing Committee

Date: 4 July 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/ajs

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Restricted Private Hire drivers licence held by Mrs Amanda Maureen Stevens, having due regard for the information contained within the report, any representations made by Mrs Stevens 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:

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 Licensing Committee consider this report.

Alternative options considered and rejected

None.

Published Work/Information

None.

Background papers:

None.

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate)

Fin		Leg	17481/AZG/15 .05.13	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

Report

1. Mrs Amanda Maureen Stevens is a licensed Restricted Private Hire vehicle driver, having been first granted a Restricted Private Hire driver's licence by this Council on the 1 September 2009. At the time of writing this report her current licence is due to expire on 31 August 2013.
2. During 2012 an investigation into the activities of an Operator of private hire vehicles led officers to believe that Mrs Stevens had driven a vehicle without a correct motor insurance policy. After further investigation, the Council decided to prosecute Mrs Stevens for that offence, the details of the conviction are as follows :-

On 3 May 2013 at South and West Devon Magistrates' Court,

Using a motor vehicle on a road (or other public place) in Plymouth which did not have a policy of insurance or such a security in respect of third party risks in force in relation to the use of the vehicle, in that the policy of insurance did not cover the use of the vehicle for hire and reward contrary to s143(1) (a) of the Road Traffic Act 1988.

Mrs Stevens pleaded guilty and was sentenced to a fine of £200 and her DVLA licence was endorsed with 8 penalty points due to the amount of journeys completed. Mrs Stevens was ordered to pay £100 costs and a victim surcharge of £15.

3. Members are asked to consider whether Mrs Stevens is a 'fit and proper' person in light of the above, and determine what, if any sanction, should be applied to her Restricted Private Hire driver's licence.
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. 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.

6. Members are made aware that this hearing has been adjourned from 30 May 2013 at the mutual agreement of Members and Mrs. Stevens
7. Mrs Stevens 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/Operator Licence Status

Committee: Taxi Licensing Committee

Date: 4 July 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/jo

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Operator's licence and Restricted Private Hire drivers licence held by Mr James Owen, having due regard for the information contained within the report, any representations made by Mr Owen, 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:

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 Licensing Committee consider this report.

Alternative options considered and rejected

None.

Published Work/Information

None.

Background papers:

None.

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate)

Fin		Leg	17593/AZG/11 .6.13	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 James Owen is a licensed Restricted Private Hire vehicle driver, having been first granted a licence by this Council on the 26 May 2009. At the time of writing this report his current licence is due to expire on 25 May 2016. He is also the licensed Operator of private hire vehicles, trading as Door Airport Door, solely for air and seaport transfers. This licence was granted on 13 February 2009 and has been renewed annually. The current operator's licence is due to expire on 12 February 2014.
2. During 2012, following information received, an investigation was made into allegations that Mr Owen had used unlicensed vehicles and drivers to carry out airport transfers. The Council, after due consideration, prosecuted Mr Owen for those offences, the details of the convictions are that :

On 17 May 2013 at Southwest Devon Magistrates' Court;

Mr Owen pleaded guilty and was convicted of offences contrary to s3 Plymouth City Council Act 1975 and s143 Road Traffic Act 1988

4 x counts of operating a collection of vehicles at various times as private hire vehicles knowing that none of these vehicles had a private hire vehicle licence in place, contrary to s3 (1) (e) (i) and 3 (2) Plymouth City Council Act 1975.

2 x counts of operating a vehicle as a private hire vehicle, knowing that the driver of that vehicle was not licenced as a private hire driver, contrary to s3 (e) (ii) and 3 (2) of the Plymouth City Council Act 1975.

2 x counts of operating a vehicle as a private hire vehicle, knowing that this additional driver of the vehicle was not licenced as a private hire driver, contrary to s3 (e) (ii) and 3 (2) of the Plymouth City Council Act 1975.

4 x counts of causing or permitting others to use a vehicle on a road (or other public place) in Plymouth when there was no policy of insurance or such other security in respect of third party risks, in place in relation to the use of that vehicle in that the policy of insurance did not cover the use of the vehicle for hire and reward, contrary to s143 (1) (b) and (2) of the Road Traffic Act 1988.

Mr Owen received credit for his early guilty plea, his co-operation with the Council and his previous good character and was awarded 6 penalty points for each of the offences of driving with no insurance.

As a result, Mr Owens' driving licence was disqualified for a period of six months.

In respect of the other offences, Mr Owen was fined a total of £4980 together with costs of £1509.34 plus a victim surcharge for £50. These high fines reflected the courts belief that Mr Owen should have been aware that the drivers he used were not licenced and the distances driven by those drivers.

3. Members are asked to consider whether Mr Owen is a 'fit and proper' person in light of the above, and determine what, if any sanction, should be applied to his Restricted Private Hire driver's licence and operator's licence.
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.

Section 20 (1) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of an operator's licence, for any offence under the provisions of this Act, or any other reasonable cause.

5. 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 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 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.

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

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