

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status following Motoring Conviction

Committee Licensing Committee (Hackney Carriage)

Date: 10 September 2009

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

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Ref: ERS/LIC/GC/pdw

Part: I

Executive Summary:

Mr. Phillip David John Westcott is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 24 February 2005. Mr. Westcott's present licence is due to expire on 23 February 2012.

On 27 July 2009, Mr Westcott telephoned the Licensing Office and informed them that he was to appear in Court regarding a motoring offence. On 13 August 2009 Mr Westcott appeared in Court and was disqualified from driving.

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

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport).

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

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and Risk Management, Equalities Impact Assessment, etc.

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:

Members of the Licensing Committee consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating SMT Member											

Report

1. On 27 July 2009, Mr Westcott telephoned the Licensing Office and informed them that he was to appear in Court regarding a motoring offence.
2. On 29 July 2009, Mr Westcott voluntarily surrendered his Private Hire driver's licence and I/D badge. On 13 August 2009 Mr Westcott appeared in Court and was disqualified from driving. A memo of conviction was requested from Plymouth Magistrates' Court on 17 August 2009, a reply was received on the same day.

Details of this motoring conviction are given below.

On 13 August 2009 at Plymouth Magistrates' Court.

Convicted of driving a motor vehicle, when alcohol level was above the legal limit. On 25 July 2009 at Plymouth, in the County of Devon, drove a motor vehicle, namely a red Skoda Octavia WA02VFN on a road, namely Union St, after consuming so much alcohol that the proportion of it in his breath was 61 microgrammes of alcohol in 100 millilitres of breath, exceeding the prescribed limit.

Contrary to S.5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988

Mr Westcott was fined £100 and ordered to pay £60 costs and £15 victim surcharge. Mr Westcott was disqualified from driving for 16 months, which could be reduced by 16 weeks if a course, approved by the Secretary of State, is completed.

An inspection of Mr Westcott's DVLA licence reveals 3 current penalty points on his licence, for speeding on 1 April 2008. Mr Westcott was also given a fixed penalty fine.

3. 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, since the grant of a licence –

for :- ***“any other reasonable cause”***.

4. In deciding whether Mr Westcott is fit and proper Members must have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

Chapter 2. – Conditions of Licence

Paragraph 12.3 states that when considering whether someone is fit and proper the authority will consider amongst other things:

- Relevant skills
- Knowledge
- Experience
- 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 not for example fit and proper or a breach of the 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 to be pertinent to the matter being considered.

- The licensing objectives are as follows:

1. Safety and health of drivers and the public - e.g. Consideration of history of convictions and actions, Driver training, qualification and performance, health and fitness to fulfill the role and 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.

Paragraph 10.2 gives the committee the discretion to direct a driver appearing them to complete further training or re - training should the drivers' suitability to retain a licence be called into question.

Appendix A – Guidance on the Relevance of Convictions.

Paragraph 1 - states that 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 a motoring offence is a relevant offence for considering the suitability of a person to retain a licence.

- Disqualification from driving a motor vehicle at any time in the five years prior to applying for a licence (time to run from the expiry of the disqualification)

5. Members are made aware that Mr Westcott kept in touch with the Licensing Office at all times during this period.
6. Mr. Westcott has been invited to attend this Licensing Committee in order that this matter may be considered.