

CITY OF PLYMOUTH

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

Committee Licensing Committee (Hackney Carriage)

Date: 5 November 2009

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

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Ref: ERS/LIC/GC/dmh

Part: I

Executive Summary:

Mr. Darren Michael Hannaford is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on the 12 October 2005. Mr. Hannaford's present licence is due to expire on 27 July 2010. He transferred to Hackney Carriage driving on 9 November 2006, and returned to Private Hire driving on 28 July 2009.

On 28 July 2009, Mr Hannaford attended the Licensing desk to transfer to his Private Hire driver's licence, he completed an application form for this purpose which revealed a motoring conviction.

Mr Hannaford 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:

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		HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

Report

1. Mr. Darren Michael Hannaford is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on the 12 October 2005. Mr. Hannaford's present licence is due to expire on 27 July 2010. He transferred to Hackney Carriage driving on 9 November 2006, and returned to Private Hire driving on 28 July 2009.
2. On 28 July 2009, Mr Hannaford attended the Licensing desk to transfer to a Private Hire driver's licence, he completed an application form for this purpose which revealed the motoring conviction detailed below.

On 6 December 2007 at Plymouth Magistrates' Court

Convicted of Using a Vehicle Uninsured Against Third Party Risks on 15 October 2007, contrary to S.143 Road Traffic Act 1988

Mr. Hannaford was sentenced to a Fine of £200 and his DVLA licence was endorsed with 6 penalty points.

3. At the time of this conviction on 6 December 2007 Mr. Hannaford was licensed as a Hackney Carriage driver and, at that time there was no condition of licence, or Byelaw requiring him to report such a conviction.
4. In submitting the application form to return to a Private Hire driver's licence on 28 July 2009 he gave details of the above conviction.
5. 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”***.

6. In deciding whether Mr Hannaford 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.

Paragraph 18.3 states that the Council will take into account of cautions and convictions, whether spent or unspent, but only insofar as they are relevant to the application.

Paragraph 18.5 says that in relation to previous convictions the authority will have regard to the following:

- Whether the convictions are spent or unspent
- The nature of the offence
- The age of the offence
- Apparent seriousness as gauged by the penalty
- The relevance of the conviction in relation to the promotion of the licensing objectives

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.**

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.

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

Guidance on the Relevance of Convictions

Paragraph 2 states that a motoring conviction is a relevant offence for considering the suitability of a person to retain a licence.

Paragraph 8 states that any driver who receives a relevant 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.

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