

## CITY OF PLYMOUTH

**Subject:** Licensed Driver – Review of Licence Status  
**Committee** Licensing Committee (Hackney Carriage)  
**Date:** 11 March 2010  
**Cabinet Member:** Councillor Brookshaw  
**CMT Member:** Director for Community Services  
**Author:** George Curness – Assistant Licensing Officer.  
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**Ref:** PPS/LIC/GC/chb  
**Part:** I

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### **Executive Summary:**

Mr Colin Howard Benson is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on 1 February 2008. Mr Benson's present licence is due to expire on 11 February 2011.

On 12 February 2010, Mr Benson attended the Licensing Desk to renew his Private Hire driver's licence. An examination of the DVLA revealed a motoring conviction which had not been previously notified to the Licensing Office.

Mr Benson has been invited to attend this hearing.

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### **Corporate Plan 2010 - 2013:**

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

Improving Accessibility (Transport)

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

Not applicable.

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**Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and Risk Management, Equality 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.

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**Recommendations and Reasons for recommended action:**

That Members of the Licensing Committee consider this report.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

(Insert)

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**Sign off:**

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

## Report

1. Mr Colin Howard Benson is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on 1 February 2008, following a Licensing Committee decision to grant the licence at a hearing on 24 January 2008. Mr Benson's present licence is due to expire on 11 February 2011.
2. On 12 February 2010, Mr Benson attended the Licensing Desk to renew his Private Hire driver's licence. An examination of the DVLA revealed a motoring conviction which had not been previously notified to the Licensing Office.
3. The DVLA licence reveals that on 2 February 2009 Mr Benson was convicted of exceeding the statutory speed limit on a public road, the offence was committed on 18 July 2008. He was fined £100 and his licence was endorsed with 3 penalty points. Prior to this Mr Benson was given a fixed penalty fine and his DVLA licence endorsed with 3 penalty points for exceeding the statutory speed limit on a public road on 1 January 2009.  
Mr Benson therefore has 6 penalty points on his DVLA, all accrued during his first year of being licensed.
4. At the time of this conviction Mr. Benson was licensed as a Private Hire driver and, as such was governed by the conditions of licence for such drivers, which are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1 of the licence states:

***The licence holder shall notify the Council's Hackney Carriage and Private Hire Inspector IN WRITING of any alteration to his declared circumstances within 7 days of such change.***

Condition 1(c) states:-

***Conviction in a Court of Law in respect of any Motoring or Criminal offences following the grant of a licence.***

And condition 1(e) states:

***The licence holder shall further inform the Council of any motoring fixed penalty endorsements received, in writing within 7 days of receiving the endorsement.'***

There is no record of Mr Benson reporting these matters to the Licensing Office, and he has therefore, breached his PHD conditions of licence.

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,

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

6. In deciding whether Mr Benson 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:

- 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, paragraph 19.3** is phrased so that generally, receiving two fixed penalty during a licence period will mean the driver receives a warning letter.

**Chapter 4, paragraph 8.1** states that the committee may revoke any licence it issues where it is satisfied that a licence holder is no longer fit and proper or a breach of a condition of licence has been established. Paragraph 8.2 goes on to say that when considering the revocation of any licence, the committee will take into account all relevant facts and circumstances including the licensing objectives, the nature of the breach and any other information thought pertinent to the matter being considered.

**Chapter 4 paragraph 10.2** states that the committee have the discretion to direct a driver appearing before them to complete further training or retraining, should the driver's suitability to retain a licence be called into question.'

**Paragraph 8 of Appendix A** of the policy states that any existing driver who receives a relevant conviction within the licence period will be referred to the Licensing Committee (Hackney Carriage) in order that the status of their licence can be reviewed.

A Motoring Offence is a relevant offence under Paragraph 2 of Appendix A

- Overriding Objective

The Policy confirms that each case will be determined on its merits

7. The Policy states that any application may be referred to the Licensing Committee (Hackney Carriage) at the discretion of the Licensing Officer. The Policy also states that it shall have reference to applicants and existing licence holders on or after the effective date, the effective date being 1 November 2008.
8. Members are asked to consider whether Mr Benson remains a fit and proper person to retain his licence in light of the conviction, endorsements and breach of licence conditions.
9. Mr Benson has been invited to attend this Licensing Committee in order that this matter may be considered.