

CITY OF PLYMOUTH

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

Committee Licensing Committee (Hackney Carriage)

Date: 10 June 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director of Community Services

Author: George Curness – Assistant Licensing Officer

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

Ref: ERS/LIC/GC/lh

Part: I

Executive Summary:

Mr. Lee Harrison is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 21 September 2000. He transferred to Hackney Carriage on 14 January 2004. Mr. Harrison's present licence is due to expire on 20 September 2010

On 12 April 2010, a letter was received from Mr Harrison outlining a Court appearance, where he was disqualified from driving for 6 months.

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

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)

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:

(Insert)

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. Lee Harrison is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 21 September 2000. He transferred to Hackney Carriage on 14 January 2004. Mr. Harrison's present licence is due to expire on 20 September 2010.
2. On 12 April 2010, a letter was received from Mr Harrison outlining a Court appearance, where he was disqualified from driving for 6 months, see Appendix A. A memo of conviction was requested from Plymouth Magistrates' Court, which was received on 22 April 2010, and details the Court proceedings below.

On 9 April 2010, at Plymouth Magistrates' Court.

Convicted of using a hand held mobile phone. On 2 October 2009 at Plymouth, drove a motor vehicle, registration number MM05BNK, on a road, namely Union St, when using a hand held mobile telephone. Contrary to Regulation 110(1) of the Road Vehicles (Construction and Use) Regulations 1986, S.41D of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988

Mr Harrison was sentenced to a fine of £120, ordered to pay costs of £60 and his Licence endorsed with 3 penalty points.

Convicted of driving a motor vehicle otherwise than in accordance with a licence. On 2 October 2009, drove a motor vehicle, namely a Citroen MM05BNK on a road, namely Union St, otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class. Contrary to S.87(1) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988.

There was no separate penalty attached to this allegation.

Convicted of failing to comply with no entry sign. On 17 February 2010 at Plymouth being a person driving a vehicle, namely Dispatch Combi Citroen MM05BMK, failed to comply with the indication given by a no entry sign lawfully placed on or near a road, namely Connaught Avenue, Plymouth. Contrary to S.36(1) of the Road Traffic Act 1988, regulation 10 of the Road Traffic Signs Regulations 2002 and Schedule 2 of the Road Traffic Offenders Act 1988.

Mr Harrison was sentenced to a fine of £120 and ordered to pay victim surcharge of £15. Licence endorsed with 3 penalty points.

Mr Harrison was then disqualified from driving for 6 months under the "totting up" rules. Disqualification was obligatory due to repeat offending, exceptional hardship was not found.

Members are made aware that the vehicle used by Mr Harrison on these occasions is a Hackney Carriage, registration number MM05BMK, licence number 814, licensed by this Council.

3. Background information is supplied to Members regarding Mr Harrison. On 31 August 2007, Officers sent a letter of warning to Mr Harrison regarding an incident of him using a mobile phone whilst driving in Saltash Road, this letter followed a verbal warning by Officers for using a mobile phone in Princess St. A complaint from a member of the Public was received on 9 February 2009, regarding the driving standards of Mr Harrison, this was dealt with by way of a warning letter sent to him on 13 February 2009.

Mr Harrison has been stopped on routine patrols when his vehicle has been the subject of roadside inspections. On 23 October 2008, the vehicle with VRM; T231JLL and licence plate 814, owned and driven by Mr Harrison was inspected by Officers. An immediate prohibition notice was issued as the vehicle was found to have three tyres worn to excess. On 12 July 2009 the same vehicle was the subject of a roadside inspection and an immediate prohibition notice was issued as the vehicle was found to have two tyres worn to excess, the rear bumper was not secured properly and the rear passenger window was jammed closed with a screwdriver. On both occasions the notices were lifted on subsequent production of the vehicle in roadworthy condition.

An inspection of the DVLA licence held by Mr Harrison reveals that, on 5 September 2001, at Plymouth Magistrates' Court, Mr Harrison had acquired 12 penalty points and was liable to have his DVLA licence disqualified. Magistrates did not disqualify at this time as they found exceptional hardship for not disqualifying. Following this, and prior to the appearance in Plymouth Magistrates' Court on 19 April 2010, Mr Harrison's DVLA licence was endorsed with 3 penalty points on 29 February 2004 for a Pedestrian Crossing offence and on 3 May 2007 Mr Harrison's DVLA licence was endorsed with 3 penalty points for using a mobile phone while driving, he was given fixed penalty fines on both occasions.

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, who has since the grant of a licence for:-

“any other reasonable cause”.

5. In deciding whether Mr. Harrison is a fit and proper person, 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 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 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 fit and proper, each case is considered on its own merits.

Paragraph 18.5 requires the Committee to have regard to the following when considering previous convictions:

- Whether they are spent or unspent.
- The nature of the offence
- The age of the offence
- The apparent seriousness as gauged by the penalty
- The relevance of the convictions in relation to the promotion of the Licensing Objectives

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.

Paragraph 8.2 - requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, the nature of the breach and any other information thought pertinent to the matter being considered.

Paragraph 10.2 gives the Committee the discretion to direct a driver appearing them to complete further training or retraining, should the driver's suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 – states that a criminal record does not automatically prevent an 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 a motoring conviction is a relevant offence for considering the suitability of a person to hold or retain a licence, and includes disqualification from driving a motor vehicle at any time in the five years prior to applying for a licence, the time to run from the expiry of the disqualification.

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. This background history and the disqualification on 19 April 2010, gives concern to Officers as they believe that Mr Harrison has shown a marked disregard for the rules of the road and to the maintenance of his vehicle, which illustrates a lack of regard to public safety.
7. Mr. Harrison has been invited to attend this Licensing Committee in order that this matter may be considered.

RECEIVED
PUBLIC PROTECTION SERVICE
13 APR 2010
F.A.O.

LEE HARRISON,



12/4/2010

Dear Sir,

It is with regret I must inform your office that on Friday last in Plymouth Magistrates Court, I pleaded guilty to, and was convicted of driving offences. These taking my points total beyond 12, resulted in a driving prohibition.

I trust that this letter satisfactorily fulfils my obligation to inform your office of convictions received whilst licensed as a Hackney Carriage Driver in the City of Plymouth.

May I also take this opportunity to make clear my firm intention, with the permission of the Licensing (Hackney Carriage) committee to resume driving a Taxi on completion of my ban.

Yours sincerely, *Lee Harrison*