

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Driver Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 5 August 2010
Cabinet Member: Councillor Peter Brookshaw
CMT Member: Director for Community Services
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Ref: ERS/LIC/GC/mnc
Part: I

Executive Summary:

Mr. Marc Nigel Cassell is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by the Council on the 9 June 1997. At the time of writing this report, this is due to expire on 9 June 2011.

On 19 May 2010 a note was received from Mr Cassell stating that he had received penalty points and a fine on his DVLA driver licence. A copy of the DVLA licence was received which reveals the conviction detailed in this report.

Mr Cassell 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:

That Members of the Licensing Committee consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

None

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. Marc Nigel Cassell is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by the Council on the 9 June 1997. At the time of writing this report, this is due to expire on 9 June 2011.
2. On 19 May 2010 a note was received from Mr Cassell stating that he had received penalty points and a fine on his DVLA driver licence. A copy of the DVLA licence was received which reveals the conviction detailed below

On 31 March 2010 at Plymouth Magistrates' Court.

Mr Cassell was convicted of using a mobile phone whilst driving a motor vehicle. The offence was committed on 11 December 2009.

Mr Cassell was fined £115 and ordered to pay a victim surcharge of £15, his DVLA licence was endorsed with 3 penalty points.

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 for:-

“any other reasonable cause”.

4. In deciding whether Mr Cassell 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.**
 - 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.**
 - 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.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is no longer, for example, fit and proper 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 10.2 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 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 offence is a relevant offence for considering the suitability of a person to 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.

5. Members are made aware that the Hackney carriage Bye Law 11 states that if a Hackney Carriage driver is convicted in a Court of Law of any motoring offence, the driver shall notify the Council within 7 days of the conviction. Mr Cassell was convicted on 31 March 2010, but did not inform the Licensing office until 19 May 2010, thereby breaching the Hackney carriage Bye Law.
6. Members are asked to consider whether Mr Cassell is a “fit and proper” person in light of the above conviction and breach of Bye Laws.

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