

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
Author: George Curness – Assistant Licensing Officer
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Ref: ERS/LIC/GC/pc
Part: I

Executive Summary:

Mr. Paul Colwill is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 17 April 2003. His current licence is due to expire on 16 April 2011.

On 15 April 2010, when Mr Colwill renewed his Private Hire driver's licence, it was noted that he had received a conviction on his DVLA licence, which he had not reported in the correct manner.

Mr Colwill 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 access across the City

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. Paul Colwill is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 17 April 2003. His current licence is due to expire on 16 April 2011.
2. On 15 April 2010, when Mr Colwill renewed his Private Hire driver's licence, it was noted that he had received a conviction on his DVLA licence, which he had not reported in the correct manner.

Details of this motoring conviction are given below.

On 7 September 2009 at Plymouth Magistrates' Court.

Mr Colwill was convicted of Exceeding the Statutory Speed Limit on a Public Road, on 8 May 2009.

Mr Colwill was fined £250 and ordered to pay a victim surcharge of £15, his licence was endorsed with 6 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 Colwill 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 before 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 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. The above guidance will be followed in such cases.

5. Members are made aware that a condition of Private Hire drivers is that at the time of these convictions Mr. Colwill 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(c) of the licence requires

The licence holder to notify the Council's Licensing Section, IN WRITING, of any conviction in a Court of Law in respect of any Motoring and/or Criminal offences following the grant of a licence, within 7 days of such an

conviction.

Mr Colwill did not make the Licensing Office aware of the conviction until 16 April 2010, thereby breaching his conditions of licence.

6. Members are asked to consider whether Mr Colwill is a “fit and proper” person in light of the above conviction and breach of condition.
7. Mr. Colwill has been invited to attend this Licensing Committee in order that this matter may be considered.