

Licensing Committee (Hackney Carriage)

Thursday 3 March 2011

PRESENT:

Councillor Fox, in the Chair.
Councillor Delbridge, Vice Chair.
Councillors Drear, Haydon, Rennie and Reynolds.

Apologies for absence: Councillor Bowie

The meeting started at 10.00 am and finished at 3.35 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

126. **DECLARATIONS OF INTEREST**

There were no declarations of interest made by councillors in accordance with the code of conduct.

127. **MINUTES**

Agreed that the minutes of the meeting held on 3 February 2011 are confirmed as a correct record.

128. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

129. **APPEAL CASES**

The Committee was informed that there was a successful court appeal against the revocation of a Hackney Carriage driver's licence at a previous Committee hearing.

130. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - L M TANASE**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Tanase;
- (c) heard from Mr Tanase's representative;
- (d) heard details of Mr Tanase's convictions;

- (e) taken into account that –
- (i) Mr Tanase contacted the Licensing Department by telephone in November 2010 to bring their attention to the penalty points he received in September 2009 and again by telephone in December 2010 to advise the Licensing Department that he had received points on his licence in February 2010 and December 2010;
 - (ii) Mr Tanase was not acting in his capacity as a taxi driver during any of the offences. There had been no complaints, fixed penalties, further convictions since the date of his last offence in February 2010 and he had now taken steps to improve his driving.

However, Members were concerned that –

- (iii) despite his claim that he reported one offence, none of the convictions or fixed penalty notices were brought to the Licensing Department in the correct manner despite considerable opportunities to do so and the very recent VRQ training. Mr Tanase had therefore breached the terms and conditions of his private hire driver's licence on three occasions;
- (iv) Mr Tanase committed two speeding offences and accumulated seven points on his licence during the probationary period of his licence;
- (v) Mr Tanase had accumulated a total of 10 points on his driving licence, all of which had been acquired since he received his private hire driver's licence.

Agreed that the decision of the Committee today is therefore that Mr Tanase's conviction and fixed penalty notices all relate to motoring offences committed since the commencement of his employment as a private hire driver.

The offences give rise to concerns regarding his attention to the road and his attitude to public safety. In addition, not reporting the penalty notices and conviction indicates a disregard for the conditions of his private hire driver's licence.

Members consider it a reasonable and proportionate decision to apply their powers under s19 (1) (b) of the Plymouth City Council Act 1975 and suspend Mr Tanase's licence for five days in respect of the non-reporting of his offences and to give him a warning in respect of the offences themselves. This warning will be placed on Mr Tanase's file and will be brought to the attention of the committee should he be brought before them for any reasons in the future.

131. **EXEMPT INFORMATION**

Agreed that under Section 100(A)(2) and (4) of the Local Government Act 1972, the press and public are excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of confidential/exempt information as defined in paragraph 3 and 7 of Part 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

132. **CONFIDENTIAL MINUTES (E3 AND E7)**

Agreed that the confidential minutes of the meeting held on 3 February 2011 are confirmed as a correct record.

133. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - JMF (E3 AND E7)**

Agreed that as the report has now been produced this item has now been withdrawn.

134. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENCE STATUS - RCM (E3 AND E7)**

Agreed that as the report has now been produced this item has now been withdrawn.

135. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF DRIVER LICENSE STATUS - PMI (E3 AND E7)**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from PMI;
- (c) heard from the Licensing Officer that the address on file for PMI was not up to date.

Agreed to adjourn the hearing until the next available committee date on the basis that PMI's right to a fair hearing was impaired by his problems in obtaining legal or other representation given the fact that he had only received notification of his attendance two days before the hearing.

136. **LICENSED PRIVATE HIRE DRIVER REVIEW OF DRIVER LICENSE STATUS - DG (E3 AND E7)**

The Committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from the Licensing Officer that DG had not attended the committee hearing and no notification regarding his absence

had been received.

Agreed that a letter be sent to DG by recorded delivery inviting him to attend the next available hearing and warning him that if he elected not to attend at that hearing all possible sanctions against his licence will be considered in his absence.

137. **LICENSED PRIVATE HIRE VEHICLE REVIEW OF VEHICLE LICENCE - A L WHEELER**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) considered additional documentary evidence provided by Mr Wheeler;
- (c) heard from Mr Wheeler;
- (d) heard from a Senior Licensing Officer;
- (e) taken into account that –
 - (i) Mr Wheeler sent the vehicle to a registered testing station for approval on several occasions and the vehicle was incorrectly assessed as compliant with vehicle specifications;
 - (ii) on the basis of those erroneous assessments, Mr Wheeler's vehicle was incorrectly issued with a Private Hire vehicle licence in March 2009;
 - (iii) Mr Wheeler had been using this vehicle as a private hire vehicle for two years without incident;
 - (iv) Mr Wheeler stated that the vehicle was licensed to transport children;
 - (v) Mr Wheeler claimed to have incurred considerable cost in purchasing the vehicle with the intention of using it as a private hire vehicle.

However, Members were concerned that:-

- (vi) the vehicle that Mr Wheeler was using as a private hire vehicle did not comply with the Private Hire vehicle specifications attached to its licence;
- (vii) most notably, it did not have four doors which led to concern for passenger comfort, safe access and egress and passenger safety, both in an emergency situation and for

daily usage;

- (viii) the vehicle by Mr Wheeler's own admission had only three doors;
- (ix) the vehicle was also classified as an N1 vehicle, indicating that it was a goods vehicles and not an M1 vehicle, designed and constructed for the carriage of passengers.

Agreed that the decision of the Committee today is therefore that the Hackney Carriage and Private Hire Licensing policy sets out guidelines for the issuing of vehicle licences in order to protect public safety.

To depart from those policy guidelines and allow a goods vehicle with an insufficient number of doors to protect passengers to continue to transport passengers would be to depart from the council's own licensing objectives, the most important of which is the safety and health of drivers and the public.

Members have decided to follow their own policy and revoke Mr Wheeler's private hire vehicle licence in accordance with their powers under s18 (1) of the Plymouth City Council Act 1975.