

## CITY OF PLYMOUTH

**Subject:** Licensed Private Hire Driver Review of Driver Licence Status

**Committee** Licensing Committee (Hackney Carriage)

**Date:** 31 March 2011

**Cabinet Member:** Councillor Brookshaw

**CMT Member:** Director for Community Services

**Author:** George Curness – Licensing Officer

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**Ref:** ERS/LIC/GC/soq

**Key Decision** No

**Part:** I

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### **Executive Summary:**

Mr. Simon Owen Quenault is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on the 17 June 2003. Mr. Quenault's present licence is due to expire on 17 June 2011.

On 11 February 2011, Mr Quenault returned his PHDL and I/D badge with a short note stating that he had been disqualified from driving for 6 months.

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

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### **Corporate Plan 2011 – 2014:**

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

Improving access across the City

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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 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:**

None.

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**Sign off:**

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|------------------------|--|-------------|------------------|------------|--|------------|--|------------|--|------------------------|--|
| Head of Fin            |  | Head of Leg | SD/14.3.11/11202 | Head of HR |  | Head of AM |  | Head of IT |  | Head of Strat. Procur. |  |
| Originating CMF Member |  |             |                  |            |  |            |  |            |  |                        |  |

## Report

1. Mr. Simon Owen Quenault is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on the 17 June 2003. Mr. Quenault's present licence is due to expire on 17 June 2011.

On 11 February 2011, Mr Quenault returned his PHDL and I/D badge with a short note stating that he had been disqualified from driving for 6 months. A memo of conviction was requested from Plymouth Magistrates' Court on 7 March 2011, a reply was received on 8 March 2011 outlining a Court appearance of Mr Quenault. Details of the Court hearing are given below,

### **On 4 January 2011, at Plymouth Magistrates' Court.**

Convicted of using a motor vehicle with tyre with any of the ply/cord exposed.

On 5 October 2010 at Plymouth, used on a road, namely Kensington Road, a motor vehicle, namely a Motor car registration number N513XFJ, when the front nearside wheel was fitted with a pneumatic tyre, which had the cord exposed.

Contrary to Regulation 27(1)(e) of the Road Vehicles (Construction and Use) Regulations 1986, section 41A of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Quenault was Fined £67 and ordered to pay Victim Surcharge of £15. His DVLA licence was endorsed with 3 penalty points, and disqualified from holding or obtaining a driving licence for 6 months. Disqualification was obligatory due to repeat offending.

An inspection of Mr Quenault's DVLA licence reveals no current points.

As disqualification due to repeat offending is an accumulation of 12 points, Mr Quenault has failed to inform the Licensing Office of any of the previous penalty points.

2. A standard Condition of Licence exists which requires all Private Hire drivers to notify the Council of any convictions received during their licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1 of the licence requires that the licensed driver shall notify the licensing unit in writing of any alteration to his declared circumstances within 7 days of any alteration which might affect the accuracy of the information revealed below, that is any:

*(c) conviction in a court of law in respect of any motoring and/or criminal offences following the grant of a licence*

*(e) any motoring fixed penalty endorsements received.*

Mr Quenault has breached this condition of licence, as we had not received any correspondence from him notifying the Licensing Office of any previous convictions or fixed penalties.

3. The following background information regarding Mr Quenault is included as Officers consider it to be relevant in respect to this case.

On 21 October 2010, during a routine patrol, Officers conducted a roadside vehicle inspection of Mr Quenault's licensed Private Hire vehicle, plate number 417, registration number N513XFJ. An immediate prohibition notice was served as the Nearside Rear tyre tread was below the legal limit, also the vehicle was considered to be in a dirty, and in an unsatisfactory condition for use as a passenger carrying vehicle. Mr Quenault was the licence holder of this vehicle at the time of the inspection.

On 22 October 2010, Mr Quenault produced the vehicle to be signed off and the licence plate returned. Further faults were found, including the Front Offside dip lamp not working which resulted in the vehicle licence remaining suspended. The suspension was lifted on 25 October 2010, when the vehicle was presented in serviceable condition.

On 14 February 2010 Mr Quenault was observed in a licensed vehicle registration number N513XFJ to be smoking a cigarette. Officers issued a fixed penalty notice which was not paid.

On 8 July 2010, Mr Quenault was prosecuted in Plymouth Magistrates' Court for the offence of smoking in a licensed vehicle, he pleaded guilty by post and was fined £100 and ordered to pay £100 costs and £15 Victim Surcharge.

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. Quenault 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 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, the nature of the breach and any other information thought pertinent to the matter being considered.

#### **Guidance on the Relevance of Convictions**

**Paragraph 1** – states that a criminal record does not automatically prevent any 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 motoring convictions are relevant offences 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 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. On 15 February 2011, a letter was sent to Mr Quenault, asking him whether or not he intended to remain in the Private Hire trade. A reply was received on 7 March 2011 indicating that he did, indeed, intend to return to the trade.
6. The disqualification from driving and supporting background information, highlights serious concerns that Mr Quenault has disregarded the rules of the road and the maintenance of his vehicle, which illustrates a lack of regard to passenger and public safety.
7. Mr. Quenault has been invited to attend this Licensing Committee in order that this matter may be considered.