

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 9 June 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: George Curness, Licensing Officer (Taxis)
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Ref: ERS/LIC/GC/sgg
Key Decision: No
Part: I

Executive Summary:

Mr. Stephen George Giles is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 21 October 2009. His current licence is due to expire on 10 April 2012.

On 9 May 2011 information was received from the Police Road Safety Officer, informing a Licensing Officer of a conviction in Court on 3 May 2011.

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

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

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:

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	SD/26.5.11/11801	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Stephen George Giles is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 21 October 2009. His current licence is due to expire on 10 April 2012.
2. On 9 May 2011 information was received from the Police Road Safety Officer, informing the Licensing Office, of a conviction in Court on 3 May 2011. A memo of conviction was requested from Plymouth Magistrates' Court on 13 May 2011 and a reply was received on 25 May 2011 which revealed the following information.

On 3 May 2011 at Plymouth Magistrates' Court

Mr Giles was convicted of driving without insurance on the 16 March 2010, contrary to S.143 Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

"On 16/03/2011 at Plymouth did use a motor vehicle, namely a Vauxhall Vectra index number KR56UPN on a road or other place namely Beaumont Road, St Judes when there was not in force in relation to that use, such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part 6 of the Road Traffic Act 1988"

Mr Giles was fined £375, and ordered to pay £85 costs and £15 victim surcharge. His DVLA licence was endorsed with 7 penalty points.

At the time of writing this report Mr Giles has no other current penalty points endorsed on his DVLA driving licence. Members are also made aware that Mr Giles was a Licensed Private Hire Licence holder at the time the above offence was committed, the vehicle index number KR56UPN is a licensed Private Hire vehicle.

3. 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(c) of the licence requires:-

*The licensed driver to notify the Council's Licensing Unit **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.*

4. At the time of writing this report it would seem that Mr. Giles has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the conviction on 3 May 2011.
5. Members are asked to consider whether Mr Giles is a "fit and proper" person in light of the above motoring conviction and breach of licence condition.
6. 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.
7. In deciding whether Mr. Giles 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 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** – 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)
- 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 motoring convictions is a relevant offence for considering the suitability of a person to retain a licence.

Paragraph 6 – states that driving licence endorsements which include fixed penalties are highly relevant, although having an endorsement will not automatically preclude a person from holding 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.

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