

CITY OF PLYMOUTH

Subject: Licensed Hackney Carriage 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: James Hirst, Licensing Officer (Taxis)
Contact: Tel: 01752 304744
e-mail: james.hirst@plymouth.gov.uk
Ref:
Part: I

Executive Summary:

Mr Kevin Lee Damarell is a Hackney Carriage driver having been first licensed by this Council on the 26 July 2006 as a Private Hire driver. On the 13 May 2008, Mr. Damarell transferred to a Hackney Carriage driver licence, and that licence was renewed on the 15 July 2010 and is due to expire on the 25 July 2011.

On the 3 May 2011, Mr. Damarell attended the Licensing desk and handed in a letter informing the Licensing Office that he has received 3 penalty points on his DVLA driving licence for a speeding offence.

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:

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|------------------------|--|-------------|-------------------------|------------|--|------------|--|------------|--|------------------------|--|
| Head of Fin | | Head of Leg | SD/25.5.11/11792 | Head of HR | | Head of AM | | Head of IT | | Head of Strat. Procur. | |
| Originating CMF Member | | | | | | | | | | | |

Report

1. Mr Kevin Lee Damarell is a Hackney Carriage driver having been first licensed by this Council on the 26 July 2006 as a Private Hire driver. On the 13 May 2008, Mr Damarell transferred to a Hackney Carriage driver licence, and that licence was renewed on the 15 July 2010 and is due to expire on the 25 July 2011.
2. On the 3 May 2011, Mr Damarell attended the Licensing desk and handed in a letter informing the Licensing Office that he has received 3 penalty points on his DVLA driving licence for a speeding offence.
3. On inspection of Mr Damarell's file it is noted that he already has 6 live penalty points on his DVLA licence for speeding offences, all of which were reported to the Council in the correct manner.

Details of these motoring endorsements are given below:

On 21 August 2008:

Mr Damarell was issued with a Fixed Penalty Notice for Exceeding Statutory Speed Limit on a Public Road.

DVLA driving licence was endorsed with 3 Penalty Points

On 27 September 2009:

Mr Damarell was issued with a Fixed Penalty Notice for Exceeding Statutory Speed Limit on a Public Road.

DVLA driving licence was endorsed with 3 Penalty Points.

On 1 May 2011:

Mr Damarell was issued with a Fixed Penalty Notice for Exceeding Statutory Speed Limit on a Public Road.

DVLA driving licence was endorsed with 3 Penalty Points.

Members are made aware that Officers are concerned that the above offences were committed during Mr Damarell's time as a licensed driver.

4. By way of additional information, Members are advised that Mr Damarell's DVLA licence was previously endorsed with 3 penalty points in respect of using a mobile phone whilst driving a motor vehicle in 2007. The penalty points incurred as a result of that offence are no longer live but considered relevant in this particular case in respect to establish pattern of offending. At the time of this endorsement the licensing section wrote to Mr Damarell warning him about the standard of his driving and advising that the warning would be taken into consideration if other instances of driving offences arose.

At the time of writing this report Mr. Damarell has a total of 9 live penalty points endorsed on his DVLA driving licence.

5. Members are asked to consider whether Mr. Damarell is a "fit and proper" person in light of the motoring offences contained within this report, all of which directly relate to the use of vehicles licensed by Plymouth City Council. In deciding whether Mr. Damarell is a "fit and

proper” person, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy.

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. The relevant parts of the Council’s policy 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 19.1 states that the Council will have regard to fixed penalties when considering if an applicant is a fit and proper person.

Paragraph 19.3 states that similar provisions are proposed for existing drivers who received endorsements on their driving licence. An isolated fixed penalty will not generally require any action by the Council; a driver receiving a further endorsement during their licence period will be sent a warning letter. A further endorsement after being sent a warning letter, will require the driver to appear before the Licensing Committee (Hackney Carriage) for the status of the licence to be reviewed. In Mr Damerell’s case he was sent a warning letter about the standard of his driving in August 2007 and again in October 2009 advising him if he received any further penalty points it may place his private hire licence in jeopardy.

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.

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.

Paragraph 10.2 - Gives the Committee the discretion to direct a driver appearing them to complete further training or re training should the driver's suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 2 – states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

Paragraph 6 – states that as grant of a private hire or hackney carriage licence permits the transport of members of the public around the city, it follows that driving licence endorsements, which includes fixed penalties, are highly relevant.

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