

Licensing Committee (Hackney Carriage)

Thursday 9 June 2011

PRESENT:

Councillor Reynolds, in the Chair.
Councillor Delbridge, Vice Chair.
Councillors Bowie, Churchill, Mrs Dolan, Haydon and Rennie.

Also in attendance: Sharon Day (Lawyer), Mark Small (Taxi and Private Hire Licensing Officer)

The meeting started at 10.00 am and finished at 3.10 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.

1. TO NOTE THE APPOINTMENT OF THE CHAIR AND VICE-CHAIR

The Committee noted the appointment of Councillor Reynolds as Chair and Councillor Delbridge as Vice Chair.

2. DECLARATIONS OF INTEREST

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

3. MINUTES

Agreed that the minutes of the meeting held on 21 April 2011 are confirmed as a correct record.

4. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

5. APPEAL CASES

The Committee was advised that there were no new appeal cases since the last meeting.

6. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - DJEDE

The Committee having –

- (a) heard from the Licensing Officer that Mr Ede had not attended the committee hearing and no notification regarding his absence had been received.

Agreed that a letter be sent to Mr Ede by recorded delivery inviting him to attend the next available hearing and warning him that if he did not attend the committee may here the matter is his absence.

7. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - S G GILES**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Giles;
- (c) taken into account that –
 - (i) Mr Giles was first licensed by the authority in October 2009;
 - (ii) Mr Giles received a motoring conviction on the 3 May 2011 for driving without insurance for which he received a fine of £375 and seven penalty points;
 - (iii) Mr Giles had failed to report the conviction in accordance with the conditions of his private hire driver's licence;
 - (iv) Mr Giles had no other penalty points on his DVLA licence;
 - (v) Mr Giles accepted that he had breached his Private Hire Driver's Licence conditions in not reporting the conviction. He had never had any previous convictions. In relation to the driving without insurance, Mr Giles explained the circumstances to the committee and stated that upon being advised of the mistake he had immediately arranged insurance.

However, members were concerned that –

- (vi) Mr Giles had been driving without insurance as this would have put members of the travelling public at risk however they accepted the explanation given by Mr Giles;
- (vii) Mr Giles had failed to comply with the conditions of his licence.

Agreed that the failure to report convictions did not indicate a willingness to work with the licensing authority and this was a relevant consideration under the Council's licensing objective of prevention of crime and disorder and protection of consumers and therefore Mr Giles' private hire driver's licence would be suspended for a period of two days under the provisions of section 19(1)(b) of the Plymouth City Council Act 1975.

8. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - K L DAMAREL**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Damarell;
- (c) taken into account that –
 - (i) Mr Damarell was first licensed by the authority in July 2006;
 - (ii) Mr Damarell received a fixed penalty notice for speeding on the 1 May 2011 and he received three penalty points;
 - (iii) Mr Damarell notified the Council of this endorsement in accordance with the terms of the Hackney Carriage Byelaws;
 - (iv) Mr Damarell had a total of nine live penalty points on his licence and had been sent warning letters about the standard of his driving in August 2007 and October 2009. He was advised that these letters would be taken into consideration if other instances of driving offences arose and that the receipt of further endorsements may put his licence in jeopardy;
 - (v) Motoring offences are relevant considerations when deciding on a person's suitability to hold or retain a licence under the Council's licensing policy;
 - (vi) Mr Damarell explained that in respect of all three speeding offences he had been doing approximately 10mph over the speed limit. He confirmed he had not had any passengers on board at the time. He considered that he had been unlucky to have been caught speeding in May this year and put this down to having a new cab. If his licence was suspended or revoked this would cause him financial hardship as he had four children and a wife to support.

However, members were concerned that –

- (vi) Mr Damarell had received two warning letters advising him that if he received any further endorsements then this would put his licence in jeopardy however these did not appear to have any affect on his driving standards or made him more cautious;
- (vii) his driving record showed a disregard for the rules of the road and Mr Damarell did not appear to accept that these offences were his fault and in particular that he considered that he was unlucky.

Agreed that Mr Damarell's driving record and attitude to controlling his speed and disregard for the rules of the road raised serious concerns for public safety which is a relevant

consideration under the Council's licensing objective of safety and health of drivers and the public. Therefore Mr Damarell's fitness to drive a licensed vehicle was called into question and his licence would be suspended for a period of three days in accordance with section 19(1)(b) Plymouth City Council Act 1975 as he had paid no regard to the warning letters previously sent to him. In addition Mr Damarell is required to re take his taxi driving standards test within three months to address his standard of driving in accordance with paragraph 10.2 of the Council's licensing policy.

(Councillor Bowie was present for the following items 9, 10, 11, 12, 13 and 14)

9. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - A STEFAN**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from Mr Stefan;
- (c) taken into account that –
 - (i) Mr Stefan was first licensed by the authority on the 18 January 2011;
 - (ii) on the 29 March 2011 Mr Stefan received a conviction for using a mobile phone whilst driving. This offence was committed on the 23 January 2011 just five days after being granted his private hire drivers licence;
 - (iii) the vehicle he was driving was a licensed vehicle rented to Mr Stefan at the time of the incident;
 - (iv) Mr Stefan had reported the conviction in accordance with the terms of his licence;
 - (v) motoring offences were relevant considerations when deciding on a person's suitability to hold or retain a licence under the Council's licensing policy;
 - (vi) Mr Stefan told the committee he was unaware that he was not permitted to use his phone whilst driving as he had been a licensed driver for 5/6 years in Romania and it was permitted there. He was now aware of the rules and apologised for the error.

Agreed that having taken into account all of the above no action would be taken against Mr Stefan's licence on this occasion but that a warning letter would be sent to him and would remain on file and be brought to committee's attention if he appeared before them again.

(Councillor Mrs Dolan left the meeting at the end of this item and was not present for items 10, 11, 12, 13 and 14)

10. **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 I Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

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

Agreed that the confidential minutes of the meeting held on 21 April 2011 are confirmed as a correct record.

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

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from LP that he disputed the content of the report.

Due to LP's dispute over the content within the report the Committee agreed to adjourn the hearing until the next available committee date in order to seek further clarity on the content of the report as they wanted to be sure the information contained in the report was accurate so as to ensure the committee are able to make an informed and accurate decision.

13. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - DRC (E3 AND E7)**

The committee having –

- (a) considered the report from the Director for Community Services;
- (b) heard from DRC.

Agreed that the application for a private hire driver's licence is granted subject to the satisfactory completion of the pre requisite tests, namely the medical test, the driving test and knowledge of Plymouth test. In addition as with all new drivers, DRC is required to complete the VRQ qualification in 'transporting passengers by taxi and private hire' or equivalent within the first 12 months of his licence.

14. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - SMH (E3 AND E7)**

Due to SMH's non attendance at Committee, Members agreed that his application for the grant of a Private Hire Driver's Licence is held on file until such time as he contacts the licensing department.