

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 7 July 2011
Cabinet Member: Councillor Jordan
CMT Member: Director for Community Services
Author: George Curness, Licensing Officer (Taxis)
Contact: Tel: 01752 307964
e-mail: george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/srh
Key Decision: No
Part: 1

Executive Summary:

Mr. Spencer Robert Hyland is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 17 May 2010. His current licence is due to expire on 17 May 2012.

On 18 May 2011 Mr Hyland attended the Licensing desk to renew his Private Hire driver's licence. At this time it was noted that Mr Hyland had received fixed penalty notices on his DVLA licence.

Mr Hyland 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: e.g. Section 17 of the Crime Disorder Act 1998, Community Safety, Health and Safety, 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	AZG/8.6.11/11816	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Spencer Robert Hyland is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 17 May 2010. His current licence is due to expire on 17 May 2012.
2. On 18 May 2011 Mr Hyland attended the Licensing desk to renew his Private Hire driver's licence. At this time it was noted that Mr Hyland had received fixed penalty notices on his DVLA licence.

Details of the fixed penalty endorsements are,

On 8 July 2010 noted by Plymouth Magistrates' Court

Mr Hyland was given a fixed penalty fine and 3 penalty points endorsed on his DVLA licence for Exceeding the Statutory Speed Limit on a Public Road.

On 3 November 2010 noted by Plymouth Magistrates' Court

Mr Hyland was given a fixed penalty fine and 3 penalty points endorsed on his DVLA licence for Exceeding the Statutory Speed Limit on a Public Road.

On 11 December 2010 noted by Plymouth Magistrates' Court

Mr Hyland was given a fixed penalty fine and 3 penalty points endorsed on his DVLA licence for Exceeding the Statutory Speed Limit on a Public Road.

Members are made aware that Mr Hyland was a Licensed Private Hire driver in his first year of being licensed at the time the above offences were committed.

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 states

*The licensed driver to notify the Council's Licensing Unit **in writing** of any alteration to his declared circumstances or material particulars, within 7 days of such alteration.*

Condition 1 (e) states

The licence holder shall further inform the Council of any motoring fixed penalty endorsements received, in writing, within 7 days of receiving the endorsement.

At the time of writing this report it would seem that Mr. Hyland has breached this condition of licence, as there is no trace of him having complied with this condition in respect of any of the fixed penalty notices.

4. Members are asked to consider whether Mr Hyland is a "fit and proper" person in light of the above motoring endorsements and possible breach of licence condition.
5. 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”.

6. In deciding whether Mr. Hyland is a “fit and proper” person, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy.
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 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.

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. No warning letters were sent to Mr Hyland as the Licensing Office was not informed of any endorsements.

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 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 convictions are relevant offences 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.

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