

CITY OF PLYMOUTH

Subject: Licensed Hackney Carriage Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 4 August 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/dje
Key Decision: No
Part: 1

Executive Summary:

Mr. David John Ede is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 6 December 2004. His current licence is due to expire on 14 March 2012.

On 15 March 2011 Mr. Ede attended an appointment at the Civic Centre to transfer his Private Hire driver's licence to Hackney Carriage. During that appointment, it was noted that Mr. Ede had received motoring convictions on his DVLA licence, which had not been reported in the correct manner.

Mr Ede 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	SD/25.5.11/11670	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. David John Ede is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 6 December 2004. His current licence is due to expire on 14 March 2012.
2. On 15 March 2011 Mr. Ede attended an appointment at the Civic Centre to transfer his Private Hire driver's licence to Hackney Carriage. During that appointment, it was noted that Mr. Ede had received motoring convictions on his DVLA licence, which had not been reported in the correct manner. Details of these motoring convictions are detailed below.

On 9 February 2009 at Plymouth Magistrates' Court

Mr Ede was convicted of Exceeding the Statutory Speed Limit on a Public Road on 14 August 2008.

Mr Ede was fined £115 and had his DVLA licence endorsed with 3 penalty points

On 18 May 2009 at Plymouth Magistrates' Court

Mr Ede was Convicted of Failing to give Information as to the Identity of Driver.

Mr Ede was fined £525 and had his DVLA licence endorsed with 3 Penalty Points.

At the time of writing this report Mr Ede has 6 penalty points endorsed on his DVLA driving licence. Members are also made aware that Mr Ede was a Licensed Private Hire Licence holder 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(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.*

Mr. Ede has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the conviction on 18 May 2009.

4. In respect of the conviction on 9 February 2009, there is an undated note from Mr Ede in his file which states "Had a letter earlier this week to say I was caught on camera doing 40 in a 30 zone on Wolveley Rd. 3 points and £60 fine". A file note made by the Technical Support team states that on 4 December 2008, during his Private Hire drivers licence renewal, a letter was handed in by Mr Ede which stated 3 points received. It is for Members to decide whether or not this written notification prior to conviction was sufficient to comply with Condition 1(c). Also on

his renewal application dated 5 December 2008, Mr Ede has written in the section dealing with convictions that he had a speeding conviction resulting in 3 penalty points on the 1 December 2008. This conviction does not show up on Mr Ede's DVLA licence.

5. Members are asked to consider whether Mr Ede is a fit and proper person and whether any action should be taken against his Hackney Carriage Driver's licence in light of the above motoring convictions and breach of his Private Hire Driver's licence conditions. In reaching their decision, 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 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 a motoring conviction 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. Members are made aware that this matter has been adjourned from 9 June 2011, due to Mr Ede’s non attendance at that hearing.
9. Mr. Ede has been invited to attend this Licensing Committee in order that this matter may be considered.