

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Licence Status

Committee Licensing Committee (Hackney Carriage)

Date: 1 September 2011

Cabinet Member: Councillor Jordan

CMT Member: Director for Community Services

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Ref: ERS/LIC/GC/wrp

Key Decision: No

Part: 1

Executive Summary:

Mr. William Rutherford Philp is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 25 May 2006. Mr Philp has continued to renew his Private Hire driver's, and this current licence is due to expire on the 24 May 2012.

On 27 July 2011 a letter was received from Mr Philp, giving details of a disqualification of his DVLA licence imposed by Plymouth Magistrates' Court on 22 July 2011

Mr Philp 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 and Equality, Diversity and Community Cohesion:

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/12.8.11/1256 3	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. William Rutherford Philp is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 25 May 2006. Mr Philp has continued to renew his Private Hire driver's licence, and his current licence is due to expire on the 24 May 2012.
2. On 27 July 2011 a letter was received from Mr Philp, giving details of a disqualification of his DVLA licence imposed by Plymouth Magistrates' Court on 22 July 2011. A memorandum of conviction was subsequently obtained from Plymouth Magistrates' court on 2 August 2011, which revealed the information below:

On 22 July 2011 at Plymouth Magistrates' Court.

Convicted of driving a small passenger vehicle on 27 May 2011, namely a motor vehicle, registration number SA55CMX, on a road, namely Underlane, when the grooves of the tread pattern of a tyre fitted to the front nearside wheel of the vehicle were not of a depth of at least 1.6mm throughout a continuous band and round the entire outer circumference of the tyre. Contrary to regulation 27 (4) (d) and (f) of the Road Vehicles (Construction and Use) Regulations 1986, S.41A of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Philp was fined £60 and ordered to pay costs of £60 and a victim surcharge of £15, and his DVLA licence was endorsed with 3 penalty points.

Mr Philp was disqualified for holding or obtaining a driving licence for 6 months, due to repeat offending (totting)

An inspection of Mr Philp's DVLA licence reveals fixed penalty fines and three penalty points received on three previous occasions, one on 29 May 2009, for a contravention of special road regulations, and two on 16 March 2010 and 6 November 2010 for exceeding the speed limit on a public road.

Members are made aware that at the time of these offences Mr Philp was licensed as a Private Hire driver, the vehicle involved in the offence on 27 May 2011, SA55CMX, is licensed as a private hire vehicle, hired by Mr Philp.

3. The following background information regarding Mr Philp is included as Officers consider it to be relevant in respect to this case.

On 13 December 2009, during a routine patrol, Officers conducted a roadside vehicle inspection of Mr Philp's licensed Private Hire vehicle, plate number 1115, VRN V781DRN. An immediate prohibition notice was served as the nearside front tyre tread was below the legal limit, and the spare tyre was punctured. Mr Philp was the licence holder of this vehicle at the time of the inspection.

On 16 January 2010, during a routine patrol Officers conducted a roadside vehicle inspection of Mr Philp's licensed Private Hire vehicle, plate number 1115, VRN V781DRN. An immediate prohibition notice was served as the Offside stop lamp was not working, Mr Philp carried out an immediate roadside repair, and the prohibition was lifted.

This vehicle has been inspected on two other occasions, on 30 July 2008 and 25 October 2007, where no faults were found with the vehicle, although on the 25 October, there were no bulbs or fuses with the vehicle and therefore Mr Philip was given notice to rectify this

within 1 day.

4. 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.
5. Members are asked to consider whether Mr Philp is a “fit and proper” person in light of the above conviction and apparent breach of condition, and what, if any sanction, needs to be applied to his Private Hire driver licence.
6. In deciding whether Mr Philp 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.**
 - 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.**
 - 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.

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 the disclosure of a criminal record or other information will not automatically prevent any 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 are relevant offences for considering the suitability of a person to hold or retain a licence, and includes disqualification from driving a motor vehicle at any time in the five years prior to applying for a licence, the time to run from the expiry of the disqualification.

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.

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