

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status
Committee Taxi Licensing Committee
Date: 6 September 2012
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne, Director for Place
Author: Mark Small - Taxi Licensing Officer
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Ref: ERS/LIC/MS/mb
Key Decision: No
Part: I

Executive Summary:

Mr Marius Betean is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on 18 November 2008. This licence has been subject to periodic renewal and the current licence is due to expire on the 17 November 2012.

On Monday 9 July 2012 officers noted from a newspaper report that Mr Betean had been convicted of an offence of Beating. On the 19 July Mr Betean informed the licensing section of his offence, in writing.

As Mr Betean has been convicted of an offence involving violence, officers are now seeking a review of the status of his private hire driver licence, and he has been invited to this Committee meeting in order for this matter to be considered.

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities. In particular:

Provide value for communities.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable.

Other Implications: eg. Child Poverty, 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:

It is recommended that the Members consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

None.

Sign off:

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|-------------------------------------------------------------------|--|-----|----------------------|----|--|--------------|--|----|--|---------------|--|
| Fin | | Leg | SD/15379/ 20.8.12 | HR | | Corp Prop | | IT | | Strat Proc | |
| Originating SMT Member | | | | | | | | | | | |
| Have you consulted the Cabinet Member(s) named on the report? No. | | | | | | | | | | | |

Report

1. Mr Marius Betean is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on 18 November 2008. This licence has been subject to periodic renewal and the current licence is due to expire on the 17 November 2012.
2. On Monday 9 July 2012 officers noted from a newspaper report that Mr Betean had been convicted of an offence of Beating. On the 19 July 2012 Mr Betean informed the licensing section of his offence, in writing, and also enclosed correspondence from the Court relating to his conviction. A copy of his letter is reproduced with this report as appendix A.

The court documents reveal that he was convicted on 6 July 2012 at Plymouth Magistrates court for two offences of Assault by Beating, for which he was sentenced to a community service order for 60 hours, to be completed within 12 months, on both counts, the second to run concurrently with the first and ordered to pay compensation of £750 and costs of £200.

The offences were that on 5 November 2011 at Plymouth, he –

Assaulted James Hickman by beating him. Contrary to section 39 of the Criminal Justice Act 1988.

Assaulted Oscar Daws by beating him. Contrary to section 39 of the Criminal Justice Act 1988.

3. Members are asked to consider whether Mr Betean is a “fit and proper” person in light of the above conviction, and determine what, if any sanction, needs to be applied to his Private Hire driver licence.
4. The actions open to Members are those contained in Section 19(1) (a) and (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 if since the grant of the licence he has been –
 - (a) convicted of an offence involving violence, or for
 - (b) any other reasonable cause.
5. In deciding whether Mr Betean 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 10.1 – States that a disciplinary hearing is for any matter concerning the breach of any licence condition or statutory regulation that may require a sanction being sought against any licence, and is determined by the Taxi Licensing Committee.

Paragraph 10.2 - Gives the Committee the discretion to direct a driver appearing 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 offences involving violence are relevant offences for considering the suitability of a person to hold or retain 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.

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

18.07.2012



To Private Hire Licensing Office – Plymouth City Council

My name is Marius Betean of 9 Melbourne Street, Plymouth and my Private Hire Licence number is **PHDL2549** which is due to expire on 17th of November this year.

I would like to inform that in 6th of July this year I was found guilty of *Assault* and convicted to *60 hours of unpaid work* and *950 pounds* in compensations and Court charges. I was waiting for the sentence letter from The Magistrates Court, which you will find it next to this letter, official paper that I got it on Friday 14th of July 2012, 4 days ago.

The reason of this conviction it's an incident back in November 2011 when I was attacked during my shift, in my taxi, by 2 drunk males but unfortunately The Court decided that it was not a "Self-defence" matter and they decided I was the one who attacked them, even they came to my car door, they opened the door and tried to pull me out from the car and most of all I did not punched or hit any of them at all but I just pulled down to the ground one of them, to put an end to their attack.

During the trial I was told that the correct action, when someone opens your taxi door, when is trying to grab you and pull you out from the car and is to call the Police and no other action at all, no matter how dangerous look the situation in that moment so I was told it was a bad call at that moment.

I was given no chance during the 7 hours trial and sadly, this verdict will affect the rest of my life from now on! Of course, I can explain the incident in details whenever you will give me the opportunity to do so if you wish so.

Please take in consideration that I already started to do my Community Unpaid Work and I will start paying the compensations but if you will decide to revoke my licence I will be unable to pay the compensations and Court charges

as I have no savings or benefits at all and most likely I will have no choice other than to leave this Country, after 4 years of hard work, following the rules and without having any problems at all.

I am ready to come in front of a Licencing Committee if necessary and explain that The Court's verdict was completely unfair and based on no evidence at all but was nothing I could do, although me and my solicitor we tried very hard to show to The Court that I was the victim in this incident. The verdict I got is very strange as it is under the minimum penalty for that charge and the amount of compensation is double than the amount requested by Prosecution, in fact is double than the "victims" actually requested during the trial!

Therefore, I would like you to take into consideration the fact that I've been working in this City since 2008, for the same company (TaxiFast & TaxiFirst) and I never had any problems with the law, not even any endorsements on my driving licence and I want to keep my private-hire licence and carry on working. Also, I would like to inform you that I have the full support of TaxiFirst management, people who know what kind of person I am and I have no problem working with them as long as I will have a licence.

I really hope that at least at the Licensing Office I can get a fair judgement and I will keep my license and also I will get a chance to prove that I am not a violent person at all, I never been so far and I won't be from now on.

Thank you very much!

Kind regards,

Marius Betean

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