

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status
Committee Taxi Licensing Committee
Date: 22 November 2012
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne
Author: George Curness, Taxi Licensing Officer
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Ref: ERS/LIC/GC/gtb
Key Decision: No
Part: I

Purpose of the report:

For Members of the Committee to review the status of the Hackney Carriage driver licence held by Mr Gabriel Boitos, having due regard for the information contained within the report, any representations made by the applicant and the Taxi Licensing Policy of the Council.

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: e.g. 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:

Fin		Leg	AZG/15736/12.11.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member:											
Have you consulted the Cabinet Member(s) named on the report? No											

Report

1. Mr Gabriel Tiberiu Boitos is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on 2 December 2008. Mr Boitos transferred to Hackney Carriage on 3 September 2009. This licence has been subject to periodic renewal and his current licence is due to expire on the 2 September 2013
2. On 17 September 2012, during the renewal process, it was noted that Mr Boitos had received penalty points on his DVLA licence, which had not been reported to the Licensing Office in the correct manner. The details of these offences are listed below.

On 5 January 2010 at South East Wiltshire PSA

Convicted of exceeding the speed limit on a motorway on 1 April 2009
Mr Boitos was fined £60 and his licence was endorsed with 3 penalty points.

On 10 April 2012 at Warwickshire PSA

Convicted of a non specified offence on 15 July 2011.
Mr Boitos was fined £85 and his licence was endorsed with 3 penalty points.

On 13 February 2010, Mr Boitos was given a fixed penalty fine and 3 penalty points for exceeding the speed limit on a public road.

Mr Boitos therefore has 9 live penalty points endorsed on his DVLA licence.

3. Standard condition of licence number 1(c) requires drivers of Private Hire vehicles to notify the Licensing Unit in writing of any conviction in a court of law in respect of any motoring offences following the grant of a licence within 7 days. There is no record of Mr Boitos having complied with this condition of licence, although Mr Boitos has indicated on his renewal form that he had received these penalty points.
4. Members are made aware that Mr Boitos was a Private Hire driver at the time of the first offence and a Hackney Carriage driver at the time of the other offences.
5. Members are asked to consider whether Mr Boitos is a "fit and proper" person in light of the above convictions and breach of licence condition, and determine what, if any sanction, needs to be applied to his Private Hire driver licence.
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. In deciding whether Mr Boitos 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 motoring offences 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.

8. Mr Boitos has completed the level 2 NVQ in Road Passenger Vehicle Driving.
9. Mr Boitos has been invited to attend this Licensing Committee in order that these matters may be considered.