

PLYMOUTH CITY COUNCIL

Subject: Licensed Hackney Carriage Driver – Review of Licence Status
Committee: Taxi Licensing Committee
Date: 28 February 2013
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne (Director for Place)
Author: George Curness – Licensing Officer (Taxis)
Contact details: Tel. 01752 307964
e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/jsh
Key Decision: No
Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Hackney Carriage drivers licence held by Mr James Scougal Higgs, having due regard for the information contained within the report, any representations made by Mr Higgs 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:

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.

Equality and Diversity

Has an Equality Impact Assessment been undertaken – No.

Recommendations and Reasons for recommended action:

Members of the Licensing Committee consider this report.

Alternative options considered and rejected

None.

Published Work/Information

None.

Background papers:

None.

Sign off:

Fin		Leg	SD/12.2.13/1 6804	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

Report

1. Mr James Scougal Higgs is a Hackney Carriage driver, first licensed by this Council as a Private Hire driver prior to December 2000. He transferred to Hackney Carriage on 19 December 2003, and has periodically renewed this licence until the present. His current licence is due to expire on 21 December 2013.
2. On 20 December 2012, during the renewal process of his Hackney Carriage driver's licence it was noted that he had received a motoring conviction. The details of the offence taken from the DVLA licence are,

On 16 October 2012 at Newton Abbott Magistrates' Court,

Mr Higgs was convicted of Exceeding the Statutory Speed Limit on a Public Road on **15 April 2012**.

Mr Higgs was sentenced to a fine of £200 and his DVLA counterpart was endorsed with 3 penalty points. Mr Higgs would have had to pay a victim surcharge of £15.

Mr Higgs currently has 3 penalty points on his DVLA licence.

3. At the time of the conviction on 16 October 2012, Mr Higgs was licensed as a Hackney Carriage driver and as such, is governed by the Plymouth City Council Hackney Carriage Bye Laws for such drivers, which were made by virtue of Section 68 Town Police Clauses Act 1847.

Bye Law 11 states that

If a Hackney Carriage driver is convicted in a Court of Law of any Motoring Offence, the driver shall notify the Council IN WRITING within 7 days of the conviction.

The Hackney Carriage Bye-Laws became effective on 14 July 2009 and were posted to all Hackney Carriage drivers, to remind them of their duties.

Mr Higgs has breached this Bye-Law as he has failed to notify the Council as required.

4. Members are asked to consider whether Mr Higgs is a 'fit and proper' person in light of the above conviction and possible breach of bye-law, and determine what, if any sanction, should be applied to his Hackney Carriage driver licence.
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 reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. 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 see below)
- Previous history as a licence holder

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is, for example, no longer a ‘fit and proper’ person 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 Licensing Committee (Hackney Carriage)

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.

7. Members are made aware that Mr Higgs has not completed the qualification in Transporting Passengers by Taxi and Private Hire.
8. Mr. Higgs has been invited to attend this Licensing Committee in order that this matter may be considered.