

PLYMOUTH CITY COUNCIL

Subject: Licensed Hackney Carriage Driver – Review of Licence Status
Committee: Taxi Licensing Committee
Date: 18 April 2013
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne (Director for Place)
Author: Mark Small (Taxi Licensing Officer)
Contact: Tel: 01752 307984
Email: mark.small@plymouth.gcsx.gov.uk
Ref: ERS/LIC/MTS/njl
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 Miss Nicola Louise Jordan, having due regard for the information contained within the report, any representations made by her 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.

Has an Equality Impact Assessment been undertaken? Yes /No* please delete as necessary

Members of the Taxi Licensing Committee consider this report.

None.

None.

None.

Sign off:

Fin		Leg	SD/I 2.3.1 3/16 838	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

Report

1. Nicola Louise Jordan is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by this Council on 28 August 2009. Her current licence is due to expire on 27 August 2013.
2. On the 23 November 2012 Nicola Jordan informed the Licensing Section in writing in a letter dated the 21 November 2012 that she had been convicted of a motoring offence on 9 November 2012.
3. On 9 January 2013 a memorandum of conviction was requested from Plymouth Magistrates Court who supplied the information below.

On 9 November 2012 at South and West Devon Magistrates Court

Convicted of Exceeding the Speed Limit on a Public Road, namely Gydnia Way Plymouth on 23 December 2011.

She was fined £60 and her licence was endorsed with three penalty points.

4. Miss Jordan has 12 live penalty points endorsed on her DVLA driver licence and in ordinary circumstances Miss Jordan would have been disqualified from driving. Miss Jordan pleaded that disqualification would cause her exceptional hardship and the Magistrates found in her favour allowing her to retain her DVLA driving licence.
5. On 9 October 2011 Miss Jordan had her hackney carriage vehicle licence suspended in respect of the vehicle having two defective tyres. One tyre was showing cord, the other had approximately half the minimum tread depth as required by law. The Taxi Licensing Officer issued a prohibition notice suspending the vehicle licence until such time as the defects were rectified. The vehicle defects were rectified on 11 October and the licence was re-instated.
6. In August 2011 Miss Jordan was issued with a warning letter for failing to comply with byelaw 11 below.
7. Byelaw number 11 of the Plymouth City Council Hackney Carriage Byelaws 2009 requires the driver of a hackney carriage to notify the Council in writing within 7 days of a conviction or motoring fixed penalty endorsement. It should be noted that the conviction was received on 9 November and the letter sent by Miss Jordan is dated as 21 November 2012, this is outside the time period required by the Byelaws for reporting the conviction. In her letter Miss Jordan apologised for the delay in notification.
8. In respect of the Hackney Carriage driver licence, 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 for any other reasonable cause.
9. 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 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy 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 where a breach of 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, 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.

Guidelines on the Relevance of Convictions

Paragraph 1 - states that the disclosure of a Criminal Record will not automatically prevent any applicant from obtaining a licence, unless it is considered that 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 when considering the suitability of a person to hold or retain a licence.

Paragraph 8 – States that any driver who receives a conviction within their license period will be referred to the Taxi Licensing Committee in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

10. Miss Jordan has been invited to attend this Taxi Licensing Committee in order that the matters contained within this report may be considered.