

PLYMOUTH CITY COUNCIL

Subject: Licensed Private Hire Driver – Review of Driver/Operator Licence Status

Committee: Taxi Licensing Committee

Date: 4 July 2013

Cabinet Member: Councillor Coker

CMT Member: Anthony Payne, Director for Place

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Ref: ERS/LIC/GC/jo

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Operator's licence and Restricted Private Hire drivers licence held by Mr James Owen, having due regard for the information contained within the report, any representations made by Mr Owen, 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:

That Members of the Licensing Committee consider this report.

Alternative options considered and rejected

None.

Published Work/Information

None.

Background papers:

None.

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate)

Fin		Leg	17593/AZG/11 .6.13	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 Owen is a licensed Restricted Private Hire vehicle driver, having been first granted a licence by this Council on the 26 May 2009. At the time of writing this report his current licence is due to expire on 25 May 2016. He is also the licensed Operator of private hire vehicles, trading as Door Airport Door, solely for air and seaport transfers. This licence was granted on 13 February 2009 and has been renewed annually. The current operator's licence is due to expire on 12 February 2014.
2. During 2012, following information received, an investigation was made into allegations that Mr Owen had used unlicensed vehicles and drivers to carry out airport transfers. The Council, after due consideration, prosecuted Mr Owen for those offences, the details of the convictions are that :

On 17 May 2013 at Southwest Devon Magistrates' Court;

Mr Owen pleaded guilty and was convicted of offences contrary to s3 Plymouth City Council Act 1975 and s143 Road Traffic Act 1988

4 x counts of operating a collection of vehicles at various times as private hire vehicles knowing that none of these vehicles had a private hire vehicle licence in place, contrary to s3 (1) (e) (i) and 3 (2) Plymouth City Council Act 1975.

2 x counts of operating a vehicle as a private hire vehicle, knowing that the driver of that vehicle was not licenced as a private hire driver, contrary to s3 (e) (ii) and 3 (2) of the Plymouth City Council Act 1975.

2 x counts of operating a vehicle as a private hire vehicle, knowing that this additional driver of the vehicle was not licenced as a private hire driver, contrary to s3 (e) (ii) and 3 (2) of the Plymouth City Council Act 1975.

4 x counts of causing or permitting others to use a vehicle on a road (or other public place) in Plymouth when there was no policy of insurance or such other security in respect of third party risks, in place in relation to the use of that vehicle in that the policy of insurance did not cover the use of the vehicle for hire and reward, contrary to s143 (1) (b) and (2) of the Road Traffic Act 1988.

Mr Owen received credit for his early guilty plea, his co-operation with the Council and his previous good character and was awarded 6 penalty points for each of the offences of driving with no insurance.

As a result, Mr Owens' driving licence was disqualified for a period of six months.

In respect of the other offences, Mr Owen was fined a total of £4980 together with costs of £1509.34 plus a victim surcharge for £50. These high fines reflected the courts belief that Mr Owen should have been aware that the drivers he used were not licenced and the distances driven by those drivers.

3. Members are asked to consider whether Mr Owen is a 'fit and proper' person in light of the above, and determine what, if any sanction, should be applied to his Restricted Private Hire driver's licence and operator's licence.
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.

Section 20 (1) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of an operator's licence, for any offence under the provisions of this Act, or any other reasonable cause.

5. 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

Paragraph 18.2 requires that in considering whether a person is no longer a 'fit and proper' person 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, 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 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.

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