

# PLYMOUTH CITY COUNCIL

Subject: Licensed Hackney Carriage Driver – Review of Licence Status  
Committee: Taxi Licensing Committee  
Date: 19 September 2013  
Cabinet Member: Councillor Coker  
CMT Member: Anthony Payne – Director for Place  
Author: George Curness – Licensing Officer (Taxis)  
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Ref: ERS/LIC/GC/jm  
Key Decision: No  
Part: I

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## **Purpose of the report:**

For Members of the Committee to consider the review of the Hackney Carriage drivers licence held by Mr James McAndrew, having due regard for the information contained within the report, any representations made by Mr McAndrew and the Taxi Licensing Policy of the Council.

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## **The Brilliant Co-operative Council Corporate Plan 2013/2014 – 2016/2017**

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

In particular: Growing Plymouth and Caring Plymouth.

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## **Implications for Medium Term Financial Plan and Resource Implications:**

**Including finance, human, IT and land**

Not applicable.

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## **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.

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## **Equality and Diversity**

Has an Equality Impact Assessment been undertaken – No

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**Recommendations and Reasons for recommended action:**

It is recommended that the Members consider this report.

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**Alternative options considered and rejected**

None.

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**Published Work/Information**

None

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**Background papers:**

None

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**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	SD/14349/2.9.13	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 McAndrew is a Hackney Carriage driver, first licensed by this Council as a Private Hire driver on 31 May 2002. He transferred to Hackney Carriage on 4 June 2004, and has periodically renewed his Hackney carriage drivers' licence to date. His current Hackney Carriage licence is due to expire on 8 December 2015.
2. On 27 August 2013, the taxi licensing office received a letter from Mr McAndrew, informing the Licensing Office of a conviction. Mr McAndrew advised that he had received a conviction for ABH at Plymouth Magistrates Court on 21 August 2013 and was given a community order which included 40 hours community work, and ordered to pay compensation of £4,748 and a surcharge of £60.
3. A Court memo of convictions was requested and received on 2 September 2013 and the following facts were confirmed:

### **On 21 August 2013 at South and West Devon Magistrates' Court**

Mr McAndrew pleaded guilty to occasioning Actual Bodily Harm, contrary to S.47 of the Offences Against the Person Act 1861.

He was sentenced to a Community Order with a requirement that he carries out 40 hours unpaid work within the next 12 months. He was ordered to pay compensation of £4748 and to pay victim surcharge of £6. There was no order for costs as compensation takes priority.

4. An inspection of the DVLA licence held by Mr. McAndrew reveals no current endorsements.
5. Members are asked to consider whether Mr. McAndrew is a 'fit and proper' person in light of the above conviction and determine what if any sanction should be applied to his Hackney Carriage driver licence.
6. 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 the driver has, since the grant of his licence, been convicted for any offence involving violence or for any other reasonable cause.
7. 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.

**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.

8. Members are made aware the Mr McAndrew has yet to complete the VRQ driver qualification in “Transporting Passengers by Taxi and Private Hire” or its equivalent. There was no requirement for Mr McAndrew to complete this qualification as he was licensed prior to 2008, when the Hackney Carriage and Private Hire Licensing Policy was adopted.
9. Mr McAndrew has been invited to attend this Licensing Committee in order that this matter may be considered.