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LICENSING COMMITTEE (HACKNEY CARRIAGE)

DATE: THURSDAY 11 FEBRUARY 2010

TIME: 10.00 AM

PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Members –

Councillor Mrs Dolan, Chair

Councillor Drean, Vice Chair

Councillors Bowie, Delbridge, Rennie, Reynolds and Thompson

Members are invited to attend the above meeting to consider the items of business overleaf

Members and Officers are requested to sign the attendance list at the meeting.

BARRY KEEL

CHIEF EXECUTIVE

LICENSING COMMITTEE (HACKNEY CARRIAGE)

PART I (PUBLIC COMMITTEE)

AGENDA

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. MINUTES (Pages 1 - 4)

To confirm the minutes of the meeting held on 14 January 2010.

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. APPEAL CASES

The Committee will be provided with the results of the judgement on appeal cases that went to Court.

6. PRESENTATION OF TAXI ENFORCEMENT STATISTICS REPORT (Pages 5 - 12)

The Director for Community Services will submit an Enforcement Activity Statistics Report for 2009.

7. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - D SOWDEN (Pages 13 - 16)

The Director for Community Services will submit a report on a licensed hackney carriage driver review of licence status.

8. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - S KENDALL (Pages 17 - 20)

The Director for Community Services will submit a report on a licensed driver review of licence status.

9. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - K KAWKA (Pages 21 - 24)

The Director for Community Services will submit a report on a licensed driver review of licence status.

LUNCH 1PM - 2PM

10. EXEMPT INFORMATION

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 3 and 7 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE COMMITTEE)

MEMBERS OF THE PUBLIC TO NOTE:

that under the law, the Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

11. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - RH (E3 AND E7) (Pages 25 - 30)

The Director for Community Services will submit a report on a licensed hackney carriage driver application for exemption.

12. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - GW (E3 AND E7) (Pages 31 - 36)

The Director for Community Services will submit a report on a licensed hackney carriage driver application for exemption.

13. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - MT (E3 AND E7) (Pages 37 - 42)

The Director for Community Services will submit a report on the application for the grant of a private hire driver's licence.

14. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - PB (E3 AND E7) (Pages 43 - 48)

The Director for Community Services will submit a report on the application for the grant of a private hire driver's licence.

**15. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF
LICENSE STATUS MK (E3 AND E7) (Pages 49 - 56)**

The Director for Community Services will submit a report on a licensed hackney carriage driver review of licence status.

Licensing Committee (Hackney Carriage)

Thursday 14 January 2010

PRESENT:

Councillor Mrs Dolan, in the Chair.

Councillor Drear, Vice Chair.

Councillors Bowie, Delbridge, Rennie, Reynolds and Thompson

The meeting started at 10.00 am and finished at 4.50 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

104. DECLARATIONS OF INTEREST

The following declarations of interest were made in accordance with the Code of Conduct in relation to items under discussions at this meeting –

Name	Subject	Reason	Interest
Councillor Rennie	Minute 113 Application for the Grant of a Private Hire Driver Licence	Knew of the applicant	Personal
	Minute 114 Application for the Grant of a Private Hire Driver Licence	Knew of the applicant	Personal

105. MINUTES

Resolved that the minutes of the meeting held on 3 December 2009 are confirmed as a correct record.

106. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

107. APPEAL CASES

The Committee was informed that –

- (i) there had been one appeal lodged against the committee's decision from the 3rd December 2009 hearing;
- (ii) there was a Crown Court hearing listed on the 15 January 2010 to hear an appeal against a revocation of a Hackney Carriage driver's licence.

108. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - R D ROBERTS

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from Mr R D Roberts;
- (iii) taken into account that Mr Roberts –
 - stated he was unaware that he had to obtain the qualification;

- had already effectively been prevented from working for four days whilst his licence renewal was being considered;
- had received none of the communications sent by the Licensing Section to remind him of this requirement;
- had since taken steps to commence VRQ training.

Resolved that Plymouth City Council's Hackney Carriage and Private Hire Vehicle Licensing Policy states at paragraph 14.2 that from November 2008, in addition to other requisite tests, applicants would be required to complete the Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent within 12 months from the date of being first licenced.

In lieu of the above, Members considered Mr Roberts' comments and the evidence before them and found that Mr Roberts remains a fit and proper person to hold a Hackney Carriage driver's licence and no action would be taken against Mr Roberts' licence today on the condition that he provides proof of placement on the Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent to the Licensing Department within 14 days. Failure to provide this would result in Mr Roberts being brought back before this Committee at a future date.

Members also required Mr Roberts to complete the Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent within 12 months of his renewal date of 7 December 2009.

109. **EXEMPT INFORMATION**

To consider passing a resolution under Section 100A (4) of the Local Government Act, 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 3 and 7 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

110. **CONFIDENTIAL MINUTES**

Resolved that the minutes of the meeting held on 3 December 2009 are signed as a correct record.

111. **LICENSED DRIVER REVIEW STATUS OF PRIVATE HIRE DRIVER AND HACKNEY CARRIAGE DRIVER LICENCE - SCW (E3 AND E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from SCW;
- (iii) heard details of SCW's motoring offences;
- (iv) heard details of SCW's caution.

The circumstances surrounding the caution gave the Committee cause for concern.

Resolved that considering all of the above a seven day suspension be imposed on SCW's Private Hire driver's licence. Members also required SCW to provide a medical certificate to the Licensing Department within 14 days. Members further requested that SCW would need to obtain the level 2 VRQ in Transporting Passengers by Taxi and Private Hire or an equivalent within 12 months from the date of first being licensed.

(Note: there is a confidential part to this minute)

112. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - PH (E3 AND E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from PH;
- (iii) considered a letter from PH's general practitioner;
- (iv) considered a letter from PH's former employer.

The details contained in the letters gave the committee cause for concern.

Resolved to suspend PH's licence until such time as he can provide a medical certificate certifying that he complies with the Group II standard of medical and mental fitness and documentary evidence that the DVLA are satisfied that he has the capacity to have his driver's licence returned.

*(Note: there is a confidential part to this minute)
(Councillor Thompson left the meeting during this item)*

113. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - GT (E3 AND E7)

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from GT;
- (iii) heard from GT's employer.

Resolved that the application for a private hire driver's licence is granted subject to the completion of the level 2 VRQ in transporting passengers by taxi and private hire or equivalent within 12 months from the date of being first licenced.

(Councillor Rennie declared a personal interest and left the room.)

114. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - JRH (E3 AND E7)

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from JRH.

Resolved that the application for a private hire driver's licence is granted subject to the completion of the three prerequisite tests and the level 2 VRQ in transporting passengers by taxi and private hire or equivalent within 12 months from the date of being first licenced.

(Councillor Rennie declared a personal interest and left the room.)

115. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - AP (E3 AND E7)

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from AP;
- (iii) heard details of AP's convictions.

Resolved that the application is refused as AP was not a fit and proper person to hold a private hire driver's licence.

(Note: there is a confidential part to this minute)

Subject: Enforcement Activity Report - 2009

Committee: Licensing Committee (Hackney Carriage)

Date: 11 February 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: David Hughes

Contact: Tel. 01751 - 304742
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Part: I

Executive Summary:

This report has been compiled to give the Licensing Committee (Hackney Carriage) an overview of the various aspects of the work undertaken by licensing officers to regulate the activities of the taxi and private hire trade for the benefit of the residents and visitors to Plymouth during 2009.

It is proposed that in future Members receive an annual report at the beginning of each year.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate improvement priorities. In particular:

1. Improving Accessibility (Transport)
 2. Informing and involving residents.
 3. Keeping Children Safe
-

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

There are no financial implications associated with this report.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts 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.

Licensing Committee – 11th February 2010

Taxi Enforcement Activity Report – 2009

1.0 Introduction

- 1.1 This report has been compiled to give Licensing Committee (Hackney Carriage) an insight into the work undertaken by taxi enforcement officers and other agencies involved in regulating the Evening and Night Time Economy (ENTE) during 2009. The main policy initiatives conducted during 2009 have been
- Vehicle Emissions Public Consultation
 - Fees
 - Rank review
 - Introduction of a new vehicle plating system
 - VRQ training requirements for all probationary drivers
 - Introduction of new Hackney Carriage Byelaws
 - Delegated decision making for Private Hire Transport Operators and for VRQ extensions
- 1.2 On the 28th July 2008 Council approved the introduction of a Hackney Carriage & Private Hire Licensing Policy that was effective from the 1st November 2008. The policy provided a framework for all future decision making and had regard to the need to modernise following changes to legislation and recent case law. The principle objectives of the new policy were Public and Driver Safety and Health; Vehicle Safety, Comfort and Access; To Prevent Crime and Disorder and to Protect Consumers; and to Encourage Environmental Sustainability.

2.0 Licensing Process

- 2.1 Licensing Officers with administrative support, undertake all aspects of the taxi licensing function covered by the Plymouth City Council Act 1975, Town Police Clauses Act 1847 and associated legislation. These responsibilities cover the regulatory process for the licensing of hackney carriage vehicles and drivers; private hire vehicles and drivers; and private hire operators.
- 2.2 During 2009 officers processed approaching 3000 applications for the range of taxi licensable services including new applications, renewals, transfers, notifications, changes in circumstances (i.e. convictions, change of address etc). The focus of this operation is the taxi licensing desk, located in the Civic Centre that is manned throughout opening hours to process all these requests.
- 2.3 This represented 226 new applications for hackney carriage and private hire driver licences; 498 renewal applications for driver licences; 239 applications for cancellation or surrender and 1340 separate vehicle applications to change or renew the vehicle licences. The rest

include private hire operator licences, restricted driver licences, transfers and special events vehicle licences.

- 2.4 Licensing Committee (Hackney Carriage) held 13 meetings to consider reports dealing with new applicants with relevant convictions, referrals for breaches in discipline and medical exemptions. Members have considered 39 new applications and of those 5 were refused on the grounds that the person was not a 'fit and proper' person to hold a licence.
- 2.5 Members considered 34 referrals for disciplinary breaches where changes in circumstances or convictions called into question their ability or willingness to continue to promote the four licensing objectives. Of those considered 8 driver licences were revoked and 12 suspensions were imposed.
- 2.6 Three appeals were subsequently made to the Magistrates' Court in respect of Members decisions. Two appeals were upheld by the Court (i.e. ruled in the applicants favour) and one appeal was dismissed (i.e. ruled in favour of the Members decision).
- 2.7 By comparing the above mentioned statistics Members will note that based on the number of applications processed during the year only a small percentage have been referred to Committee for decisions as to whether the person is, or continues to be a 'fit and proper person' capable of upholding the licensing objectives stated in the Council's Licensing Policy.

3.0 Enforcement General

- 3.1 A key part of the work is to ensure that legislative requirements are applied to assist in providing a hackney carriage and private hire service that meets the needs and aspirations of the residents and visitors to Plymouth. Taxi enforcement includes a wide range of measures to monitor how drivers interact in a proper manner and that vehicles remain fit for purpose, these measures include;
 - evening and daytime rank patrols
 - roadside vehicle inspection
 - joint enforcement operations
 - customer complaint investigation
 - advice and education
 - provision of information

Rank Patrols

- 3.1.1 Officers undertake daytime and evening rank patrols to assist in ensuring that the trade comply with the operating standards as set out in the licensing policy, conditions of licence, byelaws and other associated regulations to ensure that the owners provide safe vehicles and that driver's apply a reasonable standard of driving when

transporting members of the public. To assist them officers use a range of enforcement options, based on the seriousness of the offence these include the service of the following;

- Immediate Prohibition(to remove defective vehicles from the road)
- Vehicle defect reports (VDR)
- Fixed Penalty Notices
- Referral to Licensing Committee (Hackney Carriage)
- Referral for Prosecution
- Verbal warnings
- General advice and education

- 3.2 Taxi and Private Hire vehicles require a 12 month compliance test and for vehicles of 5 years of age or more, a 6 months test. A compliance test represents an inspection at a 'given point in time' and does not provide a guarantee of roadworthiness for the duration of the certificate. During 2009, officers conducted 350 roadside vehicle inspections checking tyres, for defective lights, cleanliness, damage and functioning taximeters. These inspections resulted in 124 (35%) immediate prohibitions being issued, primarily for defective tyres and lights; a further 134 (38%) vehicle defect reports (VDR) were issued requesting that non-urgent repairs are carried out within a specified time. Members are reminded that these inspections are not always random and frequently the experienced eye will lead an officer to select vehicles where defects may be expected.
- 3.3 Officers work closely with other enforcement agencies including the Police (traffic and licensing), VOSA and other neighbouring local authorities in recognition that the taxi and private hire trades operate cross border and these partnerships contribute towards providing a well-regulated service that contributes to the Evening and Night Time Economy of Plymouth and assists in reducing levels of crime and fear of crime.
- 3.4 Following an awareness publicity campaign to highlight the potential hazards of hiring unlicensed stretch limousines, officers organised a joint evening operation with VOSA and the police to identify unsafe vehicles that were transporting passengers to prom nights during June. The operation resulted in 3 vehicles being taken off the road due to serious faults. The operation received local media publicity prior to and following the operation that which allowed us to promote vehicle safety to parents and schools.
- 3.5 During routine patrols officers also have regard to smoke-free requirements that apply to hackney carriages and private hire vehicles. During 2009 officers issued 18 fixed penalty notices (FPN's) to drivers who were found to be smoking in their vehicles and a further 5 FPN's were issued to drivers for failing to display the appropriate smoke-free signs within their vehicles.

Operation Evershot

- 3.6 Officers participated in two joint enforcement operations with traffic police in July and December 2009, which proved to be very effective in identifying and removing unroadworthy vehicles from the road. In July, of the 86 vehicle inspections, 23 stop notices were issued (26%) and the December of the 77 vehicle inspections, 35 stop notices were issued (45%). The defects were primarily due to tyres below the minimum tread and defective lights.
- 3.7 Although the number the vehicles issued with stop notices was disappointing, the inspection profile from within the trade was invaluable, the level of publicity obtained through press releases and radio interviews was effective in promoting driver self-awareness that daily vehicle checks are essential and also by raising our profile users should bring incidences of bad practice to our attention.

6.0 Training and Awareness

- 6.1 Officers have sought to provide all drivers with the relevant information to ensure that they remain up-to-date with current operating practices. This is undertaken by the production of information sheets that are distributed in a number of ways, by hand, by post and by posting on the Council website.
- 6.2 The introduction of the VRQ training requirement for all new probationary drivers has proved an effective measure for ensuring that all new drivers achieve a similar standard by passing a qualification in Transporting Passengers by Taxi and Private Hire. Since the introduction of the licensing policy officers have also worked with the trade and local training providers to encourage existing drivers to undertake a qualification and take advantage of favourable funding opportunities rather than wait until the qualification becomes mandatory.

7.0 Work Initiatives for 2010

- 7.1 Officers will continue to undertake routine and targeted enforcement operations to ensure that the taxi and private hire trades promote the licensing objectives thereby providing an efficient and flexible service that contributes positively towards supporting a vibrant, well regulated Evening & Night Time Economy.
- 7.2 Joint operations with other enforcement agencies such as the traffic police will continue to target unsafe vehicles. Where repeat offending is identified officers will continue to bring the offenders before Licensing Committee in order for Members to consider whether the person is 'fit and proper' to remain a licensed driver. Officers will continue to liaise with trade groups to promote vehicle safety and personal driver

responsibility and investigate other ways for improving vehicle standards.

- 7.3 Officers are committed to reviewing the Licensing Policy in order to ensure its on-going effectiveness in regulating the taxi and private hire trade. It is intended to run a public consultation in order to obtain the widest range of views including those from trade, interested parties, groups and organisations that rely on this public service transport provision.

8.0 Conclusion

- 8.1 This report has sought to provide members with insight into the range of work initiatives and enforcement techniques that officers have used during 2009 to regulate the licensed taxi and private hire trades within Plymouth. In addition to highlight the major initiative planned over the next 12 months and how we interact with partner agencies to ensure that resources are targeted effectively.

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CITY OF PLYMOUTH

Subject: Licensed Hackney Carriage Driver – Review of Licence Status

Committee: Licensing Committee – (Hackney Carriage)

Date: 11 February 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

Author: George Curness - Assistant Licensing Officer

Contact: Tel 01752 307964
e-mail: george.curness@plymouth.gov.uk

Ref: ERS/LIC/GC/dcs

Part: I

Executive Summary:

Mr Desmond Craig Sowden is a licensed Hackney Carriage driver, having been first licensed as a Private Hire driver by Plymouth City Council on 7 November 2008. On the 19 January 2009, Mr Sowden transferred to Hackney Carriage. On 18 January 2010 Mr Sowden wished to renew his driver licence, but was not able to produce any evidence of having achieved a pass in the driver VRQ qualification which is a requirement for all new drivers on their first renewal of licence since the adoption of the Council Licensing policy in November 2008.

Mr Sowden's licence was renewed on the 18 January 2010, but he was informed at that time that a report would be submitted to Members of the Committee as he had failed to comply with the Council Licensing policy.

Mr Sowden has been invited to this Licensing Committee hearing.

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable

Other Implications: e.g. Section 17 Crime Disorder Act 1998, Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment etc.

Members should be aware that Section 17 of the Crime Disorder Act 1998 puts 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 & Reasons for recommended action:

It is recommended that the Members consider the content of this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

None.

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr Desmond Craig Sowden is a licensed Hackney Carriage driver, having been first licensed as a Private Hire driver by Plymouth City Council on 7 November 2008. On the 19 January 2009 Mr Sowden transferred to Hackney Carriage. On 18 January 2010 Mr Sowden attended the Licensing desk to renew his driver licence, but was not able to produce any evidence of having achieved a pass in the driver VRQ qualification (or equivalent) which is a requirement for all new drivers on their first renewal of licence since the adoption of the Council Licensing policy in November 2008.

Mr Sowden was first granted a Private Hire driver's licence by Members on the 9 October 2008, subject to him completing the pre-requisite tests. This was successfully achieved by the 4 November 2008 and his licence was issued on the 7 November 2008. The Licensing Policy was effective from the 1 November 2008, therefore bringing him within the requirements to complete a VRQ, or equivalent qualification, in Transporting Passengers by Taxi or Private Hire, within 12 months of being first licensed.

Mr Sowden's licence was renewed on the 18 January 2010, for a period of 3 years, and Mr Sowden was informed at that time that a report would be submitted to Members to consider that he had failed to comply with the Council Licensing policy. He was also advised that he should take steps to remedy the situation as soon as possible.

2. Section 19(1) (b) provides for the Council to suspend, revoke or refuse to renew the licence of a Hackney Carriage or Private Hire driver,

for any other reasonable cause.

3. In deciding whether Mr Sowden is fit and proper, Members must have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

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
- Medical Fitness
- Criminal record
- Previous history as a licence holder

Paragraph 14.2 requires all new applicants for a licence to complete the Level 2 VRQ in "Transporting Passengers by Taxi and Private Hire" or equivalent within 12 months from the date of being first licensed.

Paragraph 14.4 makes it clear that it is the responsibility of the licence holder to notify the Council at the earliest opportunity, if they consider they will not be able to comply with the qualification requirement within the 12 month licence probationary period.

Paragraph 18.2 requires that in considering whether a person is fit and proper each case is considered on its own merits.

4. In addition to the powers laid out in the Plymouth City Council Act 1975, outlined in paragraph 2 of this report, Members of the Licensing Committee (Hackney Carriage) shall have 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.
5. Members are being asked to consider, given the above information, what, if any, sanction needs to be applied to the Hackney Carriage driver's licence held by Mr Sowden in light of the fact that he has not completed the VRQ driver qualification as required by the Councils Hackney Carriage and Private Hire Vehicle Licensing policy.
6. Mr Sowden has been invited to attend this Committee in order that this matter may be considered.

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 11 February 2010
Cabinet Member: Councillor Brookshaw
CMT Member: Director for Community Services
Author: George Curness – Assistant Licensing Officer
Contact: 01752 307964 e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/shk
Part: I

Executive Summary:

Mr. Samuel Henry Kendall is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on the 11 March 2009. Mr. Kendall's present licence is due to expire on 10 March 2010.

Over a period of four months faults have been found on vehicles owned by Mr Kendall on two occasions that resulted in the suspension of his Private Hire vehicle licence. These faults are detailed in this report.

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

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable.

Other Implications: eg. Section LGA S 222 - Community Safety, Health and Safety and Risk Management, Equalities Impact Assessment etc.

Members should be aware that every Local Authority should exercise its various functions with due regard to the need to do all that it reasonably can do to promote public safety and protection.

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:

(Insert)

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Samuel Henry Kendall is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by the Council on the 11 March 2009. Mr. Kendall's present licence is due to expire on 10 March 2010.
2. Over a period of four months faults have been found on two vehicles owned and driven by Mr Kendall on two occasions. These occasions and faults are detailed below.

On 22 August 2009, during a routine vehicle inspection while on foot patrol in Albert Rd at 14.16, Licensing Officers found Mr Kendall's vehicle, plate number was 374 and the registration number R65CDA to have two defective front tyres, one of which had been worn to the steel cord on the inner edge. Officers issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defects had been rectified.

On 13 December 2009, during a joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police, on Albert Road at 20.45, a Licensing Officer found Mr Kendall's vehicle, plate number was 374 and the registration number WR05CYV, to have two tyres worn to excess on the front, one of which was below 50% of the legal limit. The Licensing Officer issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defects had been rectified.

Mr. Kendall was given an endorseable fixed penalty notice for a defective tyre by Police Officer 6336 at the same time. This means he will receive a fine of £60 and 3 penalty points on his DVLA licence.

3. Section 18 (1) of the Plymouth City Council Act 1975 provides for the Council to suspend, revoke or refuse to renew a vehicle licence on any of the following grounds;
 - (a) that the Hackney Carriage or Private Hire vehicle is unfit, for use as a Hackney Carriage or Private Hire vehicle, or
 - (b) any other reasonable cause.
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, since the grant of a licence –

for :- ***“any other reasonable cause”***.

5. Officers are concerned that Mr. Kendall is repeatedly failing to adequately maintain his vehicles in his possession, particularly his tyres. Officers consider this lack of vehicle maintenance could have an adverse effect on public safety.

Given that Mr. Kendall is demonstrating a lack of regard for vehicle maintenance and therefore passenger safety, within the first year of holding a Private Hire driver's licence, his suitability to retain a Private Hire Driver's licence is legitimately called into question.

6. In deciding whether Mr Kendall is fit and proper Members must have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:

The Licensing Objectives are as follows.

- 1. Safety and health of drivers and the public** - e.g. Consideration of history of convictions and actions, Driver training, qualification and performance, health and fitness to fulfill the role and 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 (vehicles)

Paragraph 11.1 states that a breach of the requirements of the conditions of licence may result in the vehicle being considered unfit for its purpose under S.26 of the PCC Act 1975, and the provisions of that section shall apply. In addition or as an alternative, such breach of these requirements may be considered a breach of the conditions of the vehicle licence, which could result in the suspension, or revocation of the licence.

Paragraph 16 of the Conditions of Private Hire Vehicles states that, “All tyres and wheels (including the spare) must meet the legal requirements as to suitability for use on the vehicle. Tyres must have a minimum tread depth as required by Law. They must be kept in good order and at the correct pressure.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is not for example fit and proper.

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 to be pertinent to the matter being considered.

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

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 11 February 2010
Cabinet Member: Councillor Brookshaw
CMT Member: Director for Community Services
Author: George Curness – Assistant Licensing Officer
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Ref: ERS/LIC/GC/ksk
Part: I

Executive Summary:

Mr. Krysztof Slavomir Kawka is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on the 20 July 2007. Mr. Kawka's present licence is due to expire on 19 July 2011.

Over a period of twelve months faults have been found on vehicles owned by Mr Kawka on occasions that have resulted in the suspension of his Private Hire vehicle licence. These faults are detailed in this report.

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

Corporate Plan 2009-2012:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving Accessibility (Transport)

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable.

Other Implications: eg. Section LGA S 222 - Community Safety, Health and Safety and Risk Management, Equalities Impact Assessment etc.

Members should be aware that every Local Authority should exercise its various functions with due regard to the need to do all that it reasonably can do to promote public safety and protection.

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:

(Insert)

Sign off:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr. Krysztof Slavomir Kawka is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on the 20 July 2007. Mr. Kawka's present licence is due to expire on 19 July 2011.
2. Over a period of twelve months faults have been found on two vehicles owned and driven by Mr Kawka on three occasions. These occasions and faults are detailed below.

On 20 December 2008, during a routine vehicle inspection whilst on foot patrol in New George St at 12.30 am, Licensing Officers found Mr Kawka's vehicle, plate number was 300 and the registration number R353TYA, to have two defective front tyres, both these tyres were 50% below the legal limit of 1.6 mm. Officers issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defects had been rectified.

On 3 July 2009, during a joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police, on Lockyer St at 10.45, Police Officer 6336 found Mr Kawka's vehicle, registration number R353TYA, plate number 300, to have a Constant Velocity Joint boot split, which is an integral part of the vehicle's drive/suspension. The Police Officer issued a vehicle defect notice, which allowed Mr Kawka 7 days to repair the fault. The repair was carried out on 9 July 2009.

On 18 December 2009, during a further joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police in Madeira Road at 14.45, Licensing Officers found Mr Kawka's vehicle, plate number 300 and registration number NU53UGB, to have two front tyres worn to the legal limit. The Licensing Officer issued a vehicle defect notice, which allowed Mr Kawka 24 hours to repair the fault. The repair was carried out on 19 December 2009.

Mr Kawka's vehicle had been inspected by Licensing Officers on two previous occasions. Documented evidence shows the first on **18 August 2007** in Armada Way at 19.17, where vehicle with plate number 300, registration number R353TYA, was found to have two defective tyres, both below the legal tread limit. The second on **22 December 2007** at 13.30, at St Andrews Cross, where vehicle with plate number 300, registration number R353TYA, was found to have one defective tyre, worn to below 50% of the legal tread limit.

3. Section 18 (1) of the Plymouth City Council Act 1975 provides for the Council to suspend, revoke or refuse to renew a vehicle licence on any of the following grounds;
 - (a) that the Hackney Carriage or Private Hire vehicle is unfit, for use as a Hackney Carriage or Private Hire vehicle, or
 - (b) any other reasonable cause.
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, since the grant of a licence –

for :- ***“any other reasonable cause”***.

5. Officers are concerned that Mr. Kawka is repeatedly failing to adequately maintain his vehicles in his possession, particularly his tyres. Officers consider this lack of vehicle

maintenance could have an adverse effect on public safety.

6. In deciding whether Mr Kawka is fit and proper Members must have regard to the Council's Hackney Carriage and Private Hire licensing policy. The relevant parts of which are detailed below:
 1. **Safety and health of drivers and the public** - e.g. Consideration of history of convictions and actions, Driver training, qualification and performance, health and fitness to fulfill the role and 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 (vehicles)

Paragraph 11.1 states that a breach of the requirements of the conditions of licence may result in the vehicle being considered unfit for its purpose under S.26 of the PCC Act 1975, and the provisions of that section shall apply. In addition to or as an alternative, such breach of these requirements may be considered a breach of the conditions of the vehicle licence, which could result in the suspension, or revocation of the licence.

Paragraph 16 of the Conditions of Private Hire Vehicles states that, "All tyres and wheels (including the spare) must meet the legal requirements as to suitability for use on the vehicle. Tyres must have a minimum tread depth as required by Law. They must be kept in good order and at the correct pressure.

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 a fit and proper person.

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 to be pertinent to the matter being considered.

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

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