

# Public Document Pack



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## **LICENSING COMMITTEE (HACKNEY CARRIAGE)**

**DATE: THURSDAY 15 APRIL 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, Mrs Nicholson, Rennie, and Reynolds

*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 11 and 18 March 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. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - J LISKA**

**(Pages 5 - 10)**

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

**7. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - J C TREGEA**

**(Pages 11 - 24)**

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

**8. 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.

**9. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - AP (E3 AND E7) (Pages 25 - 30)**

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

**10. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - CS (E3 AND E7) (Pages 31 - 36)**

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

### **LUNCH 1 - 2PM**

**11. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - RJP (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.

**12. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - CT (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.

**13. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - AC (E3 AND E7) (Pages 49 - 54)**

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 - TO (E3 AND E7) (Pages 55 - 60)**

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

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## Licensing Committee (Hackney Carriage)

Thursday 11 March 2010

### PRESENT:

Councillor Mrs Dolan, in the Chair.  
Councillor Drean, Vice Chair.  
Councillors Delbridge, Rennie, Bowie, Reynolds and Mrs Nicholson.

The meeting started at 10.00 am and finished at 3.40 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.*

### 130. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members in accordance with the code of conduct.

### 131. MINUTES

Resolved that the minutes of the meeting held on 11 February 2010 are confirmed as a correct record.

### 132. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

### 133. APPEAL CASES

The Committee was informed that there was a magistrate's court hearing listed on 15 March 2010 to hear an appeal against the revocation of a private hire driver's licence.

### 134. 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 items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 and 7 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

### 135. CONFIDENTIAL MINUTES

Resolved that the minutes of the meeting held on 14 January 2010 are signed as a correct record.

### 136. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS MK

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) heard from MK;
- (iii) heard from MK's legal representative;
- (iii) heard from a representative from the Devon and Cornwall Constabulary.

Resolved that at this stage of the proceedings no action would be taken against MK's licence, however, following the outcome of the criminal proceedings the matter would come back before the Committee for consideration when the Committee are in a position to be in possession of the full facts.

*(Councillor Drear, Vice-Chair left the meeting during this item.)*

137. **APPOINTMENT OF VICE-CHAIR**

Resolved that Councillor Mrs Nicholson is appointed Vice-Chair for the duration of the meeting.

**THE COMMITTEE RETURNED TO PART I FOR THE FOLLOWING ITEM.**

138. **LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - C BENSON**

The Committee having –

- (i) considered the report from the Director for Community Services;
- (ii) heard from Mr Benson;
- (iii) considered all that has been said today.

Resolved that a warning is placed on Mr Benson's file and it would be brought to the Committee's attention in the future should he appear before them again.

139. **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 items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 and 7 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

140. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - SI**

The Committee having –

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

Resolved that the application is granted subject to completion of the three pre-requisite tests and also the Committee directed that SI complete the VRQ (or equivalent) driver qualification within the first 12 months of being licensed.

141. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - CMF**

The Committee having –

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

Resolved that the application is granted subject to CMF completing the medical examination and producing a valid medical certificate.

## Licensing Committee (Hackney Carriage)

Thursday 18 March 2010

### PRESENT:

Councillor Mrs Dolan, in the Chair.  
Councillor Mrs Nicholson, Vice Chair.  
Councillors Delbridge and Reynolds.

Apologies for absence: Councillors Bowie, Drean and Rennie.

The meeting started at 10.00 am and finished at 11.15 am.

*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.*

### 142. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members in accordance with the code of conduct.

### 143. CHAIR'S URGENT BUSINESS

There were no items of chairs urgent business.

#### **Appointment of Vice Chair**

Resolved that Councillor Mrs Nicholson is appointed as Vice Chair for this meeting of the Committee as Councillor Drean had given his apologies.

### 144. HACKNEY CARRIAGE AND PRIVATE HIRE FEES FOR 2010/11

The Committee having -

- (i) considered the report from the Director for Community Services –
- (ii) heard from the Hackney Carriage trade representative that –
  - the report makes no mention of the budgets from the two trades under consideration; therefore, meaning that those making the decision have had no basis for the justification of the proposed fees to be imposed;
  - the Plymouth Licence Taxi Association (PLTA) were not content that a surplus had accrued in the Private Hire trade and request that the Licensing Authority transfer a sum of £80,000 to compensate for the apportionment that had been wrongly split between 2002 to 2009;
  - as a result of the council's defence of its policy to limit the number of Hackney Carriage vehicle licences court case in 2005/2006, it is believed that the Licensing Authority should now check every vehicle before it is permitted to operate;
  - the report insinuates that the Licensing Authority was awaiting the outcome of further action following the court case meaning that the proposed fees could be superseded by greater fees in the future;
  - it is requested that the Licensing Authority move to five yearly surveys to tie in with the cost of upgrading older vehicles and purchasing brand

new ones;

- the PLTA fully support the two month temporary vehicle licence as well as the new plates and signs and consider these to be a big improvement;
- the PLTA recognise the need for the increase in taxi driver and licence fees of 10% but feel that all other charges should enjoy parity with Private Hire fees;
- it is felt that the operators application fee and the operators driver fee are insufficient;
- many Private Hire vehicles had been contravening Appendix K, of the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy particularly in respect of the signage policy;
- for approximately ten years the taxi trade had been promised a Traffic Order covering every taxi rank in the city due to vehicles parking on taxi ranks, an offence that was not currently enforceable by Parking staff. Lack of enforcement was one of the trade's biggest problems.

(iii) heard from the Principal Environmental Health Officer that –

- with regard to the contravening of Appendix K, the Licensing Authority had requested that the firms in question remove the signage from their doors;
- with regard to enforcement, an additional Enforcement Officer position had been advertised and this would address the lack of enforcement issues;
- that the Licensing Authority was not able to make a profit from this account and this had been the reason for the Private Hire trade not having an increase in their fees;
- the possibility of implementing a traffic order was being discussed with AMEY, the council's highways contractor;
- it was the Licensing Departments recommendation that the Committee consider extending the advertisement period from 14 days to 28 days to allow for an extended period of objections to the fees.

Resolved that –

- (1) the new fee structure as set out in the Fees Table (Appendix 1 of the report) is to be advertised in accordance with statutory requirements;
- (2) the period for objections in the advertisements is to be 28 days.

## 145. EXEMPT INFORMATION

There were no items of exempt information.



**CITY OF PLYMOUTH**

**Subject:** Licensed Driver – Review of Driver Licence Status  
**Committee** Licensing Committee (Hackney Carriage)  
**Date:** 15 April 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/jl  
**Part:** I

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**Executive Summary:**

Mr. Jan Liska is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 3 August 2005. Mr. Liska's present licence is due to expire on 11 August 2012.

On 4 January 2010 a note was received from Mr Liska stating that he had received 8 penalty points on his DVLA driver licence. A memo of conviction was requested from Plymouth Magistrates' Court and received on 26 February 2010, which details the motoring conviction in this report

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

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**Corporate Plan 2010-2013:**

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

Improving Accessibility (Transport)

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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: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety, Risk Management, Equality Impact Assessment etc.**

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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**Recommendations and Reasons for recommended action:**

That Members of the Licensing Committee consider this report.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

(Insert)

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**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. Jan Liska is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 3 August 2005. Mr. Liska's present licence is due to expire on 11 August 2012.
2. On 4 January 2010 a note was received from Mr Liska stating that he had received 8 penalty points on his DVLA driver licence. A memo of conviction was requested from Plymouth Magistrates' Court on 22 February 2010 and received on 26 February 2010.

Details of this motoring conviction are given below.

### **On 19 October 2009 at Plymouth Magistrates' Court.**

Mr Liska was convicted of using a motor vehicle without third party insurance, on 14 September 2009 at Plymouth. He used a motor vehicle, registration number V287JTU on a road, namely Victoria Road St Budeaux, when there was not in force in relation to that use, such a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part VI of the Road Traffic Act 1988, contrary to S.143 Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Liska was fined £400 and ordered to pay costs of £60 and victim surcharge of £15, his DVLA licence was endorsed with 8 penalty points.

Members are made aware that the vehicle V287JTU is a licensed private hire vehicle, currently licensed to Mr Liska from 1 April 2009 till 31 March 2010.

3. 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”***.

4. In deciding whether Mr Liska 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:

- **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.**
  - 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.**
  - 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 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.

**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.

**Paragraph 10.2** gives the committee the discretion to direct a driver appearing them to complete further training or re – training, should the drivers' suitability to retain a licence be called into question.

## **Guidance on the Relevance of Convictions**

**Paragraph 1** – states that 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 a motoring offence is a relevant offence for considering the suitability of a person to retain a licence.

5. Members are made aware that a condition of Private Hire drivers is that at the time of

these convictions Mr. Liska was licensed as a Private Hire driver and, as such was governed by the conditions of licence for such drivers, which are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(c) of the licence requires

***The licence holder to notify the Council's Hackney Carriage and Private Hire Inspector IN WRITING of any conviction in a Court of Law in respect of any Motoring and/or Criminal offences following the grant of a licence, within 7 days of such an conviction.***

6. Members are asked to consider whether Mr Liska is a "fit and proper" person in light of the above conviction and guidance.
7. Mr. Liska has been invited to attend this Licensing Committee in order that this matter may be considered.

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**CITY OF PLYMOUTH**

**Subject:** Licensed Driver – Review of Diver Licence Status  
**Committee** Licensing Committee (Hackney Carriage)  
**Date:** 15 April 2010  
**Cabinet Member:** Councillor Brookshaw  
**CMT Member:** Director for Community Services  
**Author:** Mark Small - Senior Taxi Licensing Officer  
**Contact:** 01752 307984 e-mail: mark.small@plymouth.gov.uk  
**Ref:** ERS/LIC/MS/jct  
**Part:** I

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**Executive Summary:**

Mr John Charles Tregea is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 1998, his current licence is due to expire on 10<sup>th</sup> July 2010.

On the 4<sup>th</sup> March 2010 Mr Tregea was prosecuted by Plymouth City Council for smoking offences against the Health Act 2006. Officers are therefore seeking a review of the status of the driver licence held by Mr Tregea as they are dissatisfied with his conduct generally due to his repeated offences and standard of conduct.

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

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**Corporate Plan 2010-2013:**

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

Improving Accessibility (Transport)

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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: eg. Section 17 of the 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 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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**Recommendations and Reasons for recommended action:**

That Members of the Licensing Committee consider this report.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

(Insert)

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**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 John Charles Tregea is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 1998, his current licence is due to expire on 10<sup>th</sup> July 2010.
2. On the 4<sup>th</sup> March 2010 Mr Tregea was prosecuted by Plymouth City Council for smoking offences against the Health Act 2006.

Details of this motoring conviction are given below.

### **On 04 March 2010 at Plymouth Magistrates' Court.**

Mr Tregea was convicted of an offence of Smoking in a Smokefree place (a licensed Hackney Carriage) contrary to S.7(2) of the Health Act 2006. There was also one other offence of the same nature taken into consideration. He was fined £65 and ordered to pay costs of £100 and a victim surcharge of £15.

3. The antecedence of offences leading up to this conviction are provided below:

On the 06<sup>th</sup> December 2007 Mr Tregea was observed by a Licensing Officer smoking within licensed Hackney carriage number 780 and a warning letter was sent warning him of the actions open to the Council for future non-compliance with the Smokefree legislation, see Appendix A.

On the 10<sup>th</sup> May 2008 Mr Tregea was observed by a Licensing Officer to be smoking in licensed Hackney Carriage 780. On this occasion he was offered the option of a fixed penalty notice to discharge the offence which he accepted and paid within the permitted time. See Appendix B

On the 06<sup>th</sup> March 2009 Mr Tregea was again observed by a Licensing Officer to be smoking within licensed Hackney Carriage 780. This offence was dealt with by issuing fixed penalty notice which was accepted and paid within the permitted time period. See Appendix C

On the 20<sup>th</sup> September 2009 Mr Tregea was observed to be smoking in licensed Hackney Carriage 741 by two officers of the Public Protection Service who reported their observations to the Licensing Section. Statements were obtained from the Officers making the observation and Mr Tregea was prosecuted for this offence on the 4<sup>th</sup> March 2010.

A Licensing officer again witnessed Mr Tregea smoking within a licensed Hackney Carriage on 20<sup>th</sup> February 2010. It is this offence that was taken into consideration on 4<sup>th</sup> March 2010 when Mr Tregea was prosecuted.

4. On the 23<sup>rd</sup> March 2009, officers sent Mr Tregea a warning letter concerning his conduct after receiving a complaint from a member of the public over his complete disregard for the care of his customers. That letter, which is provided as appendix D to this report, warned Mr Tregea that any further complaints or breaches of the laws relating to the use of licensed vehicles, would lead to a review of the status of his driver licence.

5. Mr Tregia has appeared before Members where Officers have sought a review of his driver licence status. On the 23<sup>rd</sup> January 2006 his licences status was reviewed and his Hackney Carriage driver licence was suspended for a period of 7 days. The report considered by Members on that occasion is provided as appendix E to this report as background information.
6. Officers are now seeking a review of the status of the licence held by Mr Tregia due to his repeated offending and general disregard or contempt for the rules and regulations relating to the licensing regime. It is considered that his actions have had and could continue to have the potential to be detrimental to his passenger's health, wellbeing and comfort. Officers consider that the repeated offending and lack of customer care demonstrated by Mr Tregia is not conducive to the aims and objectives of the licensing regime, and his actions can only portray the trade in a negative light
7. 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”***.
8. In deciding whether Mr Tregia 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:

### **General Policy**

The Councils 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 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**

**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 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 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.

**Paragraph 10.2** gives the Committee the discretion to direct a driver appearing them to complete further training or re - training should the drivers' suitability to retain a licence be called into question.

#### **Guidance on the Relevance of Convictions**

**Paragraph 1** – states that 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 contraventions of Licensing Laws or conditions are relevant offences for considering the suitability of a person to retain a licence.

9. Members are asked to consider whether Mr Tregua is a "fit and proper" person in light of the matters contained within this report
10. Mr. Tregua has been invited to attend this Licensing Committee in order that this review of his driver licence status can be considered.

**Appendix A**



**PUBLIC PROTECTION SERVICE**  
Department of Development

Plymouth City Council  
Civic Centre  
Plymouth  
PL1 2AA

Tel: 01752 307984  
Fax: 01752 307810  
Email: [environmental.regulation@plymouth.gov.uk](mailto:environmental.regulation@plymouth.gov.uk)  
[www.plymouth.gov.uk](http://www.plymouth.gov.uk)

When calling or telephoning please ask for: **Mark Small**

My Ref: RH/LD

Date: 11 December 2007

Dear Mr Tregear

**The Health Act 2006 Part 1**  
**The Smokefree (Exemptions and Vehicles) Regulations 2007**  
**The Smokefree (Signs) Regulations 2007**

On 06 December 2007 at 1642 hours, I observed you smoking in hackney carriage 527 whilst on Mannamead Road heading towards Mutley Plain. You were then seen to discard the cigarette remains out of the driver's window.

Regulation 11 of the Smokefree (Exemptions and Vehicles) Regulations 2007 provides that an enclosed vehicle shall be smokefree if it is used:

- by members of the public
- in the course of paid or voluntary work by more than one person, even if the persons who work there do so at different times or only intermittently.

Smokefree vehicles are required to be smokefree at all times.

I enclose some guidance notes to assist you, however please contact me if you require any further advice.

I must advise that if we continue to receive complaints or witness smoking in any smokefree vehicle, then we may instigate formal action.

Thank you for your anticipated co-operation.

Yours faithfully

**Mark Small M.I.L. CertHE(Licensing Law)(B'ham)**  
Senior Licensing Officer  
Public Protection Service



Appendix B



Fixed penalty notice no. 00406

Schedule 1 and 2 Regulations 3(1) and 3(2) Plymouth City Council, Civic Centre, Plymouth PL1 2AA.

FIXED PENALTY NOTICE: THE HEALTH ACT 2006 Section 6 (Failure to display no smoking signs in accordance with requirements made by or under section 6) Section 7 (Offence of Smoking in a Smoke Free Place)

PART 1

Full name of alleged offender: JOHN CHARLES TROBGA

Address of [redacted] Postcode: [redacted]

I, GORGE CORWISS (name of authorised officer of Plymouth City Council (PCC) under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 6 or 7 of the Health Act 2006 (detailed below) to which PCC has enforcement responsibilities.

- Failure to display no smoking signs in premises, a place or vehicle in accordance with requirements made by or under section 6 of the Health Act 2006 (PENALTY AMOUNT £200, reduced to £150 if paid in 15 days, maximum penalty on conviction £1,000)
Smoking in a smoke free place in accordance with requirements made by or under section 7 of the Health Act 2006 (PENALTY AMOUNT £50, reduced to £30 if paid in 15 days, maximum penalty on conviction £200)

The circumstances alleged to constitute the offence are that at 16:26 (time) on 10/5/08

Date you at/on on the following premises, place or vehicle (where alleged offence took place, including address if any): DATE 780 3392 AIN

being premises, a place or vehicle to which the provisions of sections 6 and 7 of the Health Act 2006, allegedly (details of offence):

The notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty. No proceedings will be taken for this offence before the expiration of the period of 29 days beginning with the date of issue (see below). You will not be liable to conviction for the offence if you pay the fixed penalty within the period of 29 days. You can pay a discounted amount if you pay within the period of 15 days beginning with the date of issue.

Details about how to pay this fixed penalty notice are at Part 2 of this notice. Information for the immediate attention of the person who has been issued this penalty notice is at part 3 of this notice (see reverse). Details about how to request a court hearing in relation to this alleged offence are at part 4 of this notice (see reverse). If you have any questions, or if you wish to discuss this notice, please contact Public Protection Service on 01752 304141.

Signature of authorised officer: [Signature] Date: 10/5/08

PART 2 Paying the penalty

If you choose to pay the penalty within 29 days, no further action will be taken in respect of the alleged offence described in part 1 of this penalty notice, The payment involves no admission of guilt and will not result in a criminal conviction being made against you.

Payment in person - at Civic Centre, Plymouth PL1 2AA. Payment by post - cheque, money order or postal order made payable to Plymouth City Council and send to: Plymouth City Council, Civic Centre, Plymouth PL1 2AA. Do not send cash by post.

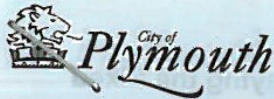
Please produce/send your white copy with your payment and quote your name and ticket number on all correspondence, the yellow copy should be retained for your records. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped self-addressed envelope.

WARNING - Non payment within 29 days is likely to result in prosecution; the maximum fine payable on conviction for each offence is detailed above.

Ledger code: 4972 8349

**Appendix C**





Fixed penalty notice no. 00413

Schedule 1 and 2 Regulations 3(1) and 3(2) Plymouth City Council, Civic Centre, Plymouth PL1 2AA.

FIXED PENALTY NOTICE: THE HEALTH ACT 2006 Section 6 (Failure to display no smoking signs in accordance with requirements made by or under section 6) Section 7 (Offence of Smoking in a Smoke Free Place)

PART 1

Full name of alleged offender: MR JOHN CHARLES TREGGA

Address [Redacted]

Postcode [Redacted]

I, GEORGE CURNESS

(name), an authorised officer of Plymouth City Council (PCC) under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 6 or 7 of the Health Act 2006 (detailed below) to which PCC has enforcement responsibilities.

- Failure to display no smoking signs in premises, a place or vehicle in accordance with requirements made by or under section 6 of the Health Act 2006 (PENALTY AMOUNT £200, reduced to £150 if paid in 15 days, maximum penalty on conviction £1,000)
Smoking in a smoke free place in accordance with requirements made by or under section 7 of the Health Act 2006 (PENALTY AMOUNT £50, reduced to £30 if paid in 15 days, maximum penalty on conviction £200)

The circumstances alleged to constitute the offence are that at: 16:30 (time) on 6/3/09

Date you acted on the following premises, place or vehicle (where alleged offence took place, including address if any): BLACK METRO CAB S392 ATN PLATE 780 (NORTH HILL)

being premises, a place or vehicle to which the provisions of sections 6 and 7 of the Health Act 2006, allegedly (details of offence): SMOKING IN ABOVE VEHICLE

The notice offers you the opportunity if discharging any liability for conviction for that offence by the payment of a fixed penalty. No proceedings will be taken for this offence before the expiration of the period of 29 days beginning with the date of issue (see below). You will not be liable to conviction for the offence if you pay the fixed penalty within the period of 29 days. You can pay a discounted amount if you pay within the period of 15 days beginning with the date of issue.

Details about how to pay this fixed penalty notice are at Part 2 of this notice. Information for the immediate attention of the person who has been issued this penalty notice is at part 3 of this notice (see reverse). Details about how to request court hearing in relation to this alleged offence are at part 4 of this notice (see reverse). If you have any questions, or if you wish to discuss this notice, please contact Public Protection Service on 01752 304141.

Signature of authorised officer: [Signature] Date: 10/3/09

PART 2 Paying the penalty

If you choose to pay the penalty within 29 days, no further action will be taken in respect of the alleged offence described in part 1 of this penalty notice. The payment involves no admission of guilt and will not result in a criminal conviction being made against you.

Payment in person - at Civic Centre, Plymouth PL1 2AA. Payment by post - cheque, money order or postal order made payable to Plymouth City Council and send to: Plymouth City Council, Civic Centre, Plymouth PL1 2AA. Do not send cash by post.

Please produce/send your white copy with your payment and quote your name and ticket number on all correspondence, the yellow copy should be retained for your records. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped self-addressed envelope.

WARNING - Non payment within 29 days is likely to result in prosecution; the maximum fine payable on conviction for each offence is detailed above.

Ledger code: 4972 8349





**Public Protection Service**

Department of Development  
Taxi Licensing Section  
Plymouth City Council  
Civic Centre  
Plymouth  
PL1 2AA

Tel: 01752 307984  
Fax: 01752 307810  
Email: [taxi.licensing@plymouth.gov.uk](mailto:taxi.licensing@plymouth.gov.uk)  
[www.plymouth.gov.uk](http://www.plymouth.gov.uk)

When calling or telephoning please ask for: **Mark Small**

My Ref: **MS/LD**

Date: **23 March 2009**

Dear Mr Tregea

You may recall that I wrote to you recently regarding a complaint I have received from a member of the public. That letter contained an incorrect date for the incident which actually took place on 27 February 2009 at approximately 1545hrs, in Hackney Carriage 780. I apologise for the error in my previous letter, which should be disregarded. This letter now contains the correct incident date, and I reiterate the content of the original below.

The complainant hired your vehicle from Old Town Street, going to a destination in Brentford Avenue. She was accompanied by her young children, one of which was unwell with a bronchial condition and in a pushchair. She states that you failed to assist her either into or out of the vehicle, but more importantly, that you refused to put the heating on in the vehicle or close your drivers window, even when she informed you that her child was ill and they were feeling cold. And she also describes your attitude, at best, as being extremely obstructive with a very bad attitude.

The complaint appears to demonstrate your complete disregard for customer care, which not only reflects badly on you as an individual, but could also reflect poorly on the trade as a whole, and reflects an attitude on your part, which has no place in a customer service environment.

I note from your file that previous complaint have been received concerning your lack of customer care and awareness, and also breaches of the law which have been dealt with on previous occasions.

I do not intend to pursue this particular complaint any further, but I am issuing this letter as a final warning regarding your future behaviour. If a further complaint is received about you, or there are any further breaches of Hackney Carriage laws or regulations, then it will be my intention to seek a review of the status your Hackney Carriage driving licence, which could result in that licence being revoked.

I would therefore recommend that you adjust your attitude towards customers, who are after-all providing you with a living, and abide by the laws relating to your chosen trade to prevent further complaints which could lead to a review of your licence status.

Yours faithfully

**MARK SMALL** M.I.L. CertHE(Licensing Law)(B'ham)  
Senior Taxi Licensing Officer  
Public Protection Service

**Appendix E**



## CITY OF PLYMOUTH

**Subject:** Licensed Driver – Refusal to take Wheelchair Passenger Without Reasonable Excuse

**Committee** Licensing Committee (Hackney Carriage)

**Date:** 23<sup>rd</sup> January 2007

**Cabinet Member:** Cllr Dafydd Williams - Transport & Environmental Quality

**CMT Member:** N. Pitt – Corporate Director for Development

**Author:** George Curness – Assistant Licensing Officer

**Contact:** (30)7964 e-mail george.curness@plymouth.gov.uk

**Ref:** ERS/LIC/GC/jt

**Part:** I

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### **Executive Summary:**

Mr. John TREGEA is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 21<sup>st</sup> April 1998, his current licence is due to expire on 10<sup>th</sup> July 2009. On the 27<sup>th</sup> November 2006, a complaint was received from a member of the public that alleged that Mr TREGEA and others had refused to take a wheelchair bound passenger to their destination.

Details of the complaint and of other incidents of this nature regarding Mr TREGEA are in this report.

Mr TREGEA has been invited to attend this Committee hearing.

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### **Corporate Plan 2004-2007:**

This report links to the delivery of the corporate priorities defined in Strategic Choices. In particular:

1. Improving the health, social well being and safety of local people
  2. Contributes to the delivery of Customer focused services
- 

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

Not applicable.

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**Other Implications: eg. Section 17 - Community Safety, Health and Safety and Risk Management etc.**

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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**Recommendations and Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

(Insert)

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**Sign off:**

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

1. Mr. John TREGEA is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 21<sup>st</sup> April 1998, his current licence is due to expire on 10<sup>th</sup> July 2009. On the 27<sup>th</sup> November 2006, a complaint was received from a member of the public that alleged that Mr TREGEA had refused to take a wheelchair bound passenger to their destination.
2. On 26<sup>th</sup> November 2006, at the Hackney Carriage stand in Old Town Street, a woman approached the first Taxi with her Mother who was in a wheelchair. The first Taxi driver attempted to take the wheelchair and four other passengers in the group, which included a toddler in a pushchair, but had to refuse the fare as his Taxi was not licensed to take this amount of passengers.  
Mr TREGEA was second in the rank and allegedly told the complainant that he did not take wheelchairs, thereby refusing to take a fare from the rank without good reason. This was witnessed by the driver in a Taxi, fourth in the line, and was confirmed in a letter sent by that driver, to the Licensing Office, on 29<sup>th</sup> November 2006.
3. The Taxi driven by Mr TREGEA is Hackney Carriage plate number 535, is licensed to carry 5 passengers, and is wheelchair accessible, it is owned by Mr David REED and its current licence is due to expire 12<sup>th</sup> February 2007. Mr REED confirmed in a letter received on 13<sup>th</sup> December 2006, that he is the owner of the vehicle and Mr TREGEA is the driver.
4. A letter was sent to all the drivers involved in this incident, asking for an explanation of their actions concerning this incident, replies were received from all drivers except Mr TREGEA, who had not replied to the letter on 3<sup>rd</sup> January 2007. The letter had requested a reply, in writing, within 7 days of receiving the letter, which was sent on 18<sup>th</sup> December 2006.
5. Previous to this incident on 28<sup>th</sup> June 2006, another wheelchair bound passenger was refused to be driven by Mr TREGEA, again the incident was on the Hackney Carriage stand at Old Town Street, the same vehicle was involved, and the complainant stated in a letter that they were waved away by the driver.
6. A letter from the Licensing Office was sent on 29<sup>th</sup> June 2006 to Mr TREGEA outlining 4 facts pertaining to this matter,
  - a) that the vehicle was wheelchair accessible
  - b) that the vehicle was on a Hackney Carriage stand available for hiring
  - c) that the driver was Mr TREGEA and he had refused to carry a wheelchair user, who wished to hire the Taxi and
  - d) Mr TREGEA does not hold a medical exemption from carrying wheelchairs.The letter stated that this was a written formal warning and that further instances of this type could result in prosecution. The letter went on to explain that wheelchair users rely to a great degree on Taxis to transport them and refusal often causes great upset to them.
7. As far back as 9<sup>th</sup> November 1996, a complaint was lodged against Mr TREGEA for a similar matter. He was interviewed on 17<sup>th</sup> December 1996 with regard to this matter, and said in his statement that he did not remember the incident, and made no comment to the questions put to him by Mr BALSDON, the Assistant Licensing Officer at that time, who noted on the statement that Mr TREGEA had refused to sign the statement.
8. At the time of these incidents Mr TREGEA was licensed as a Hackney Carriage driver

and as such was governed by the Town Police Clauses Act 1847.

***Section 53 of the Town Police Clauses Act 1847 states that any driver who refuses without reasonable excuse to drive the carriage to any place within the prescribed distance shall commit an offence.***

9. Mr TREGEA has refused on at least three occasions to carry passengers to their destination as prescribed in Sec 53 TPCA 1847.
10. Section 19(1)(b) of the Plymouth City Council Act 1975 provides for the Council to suspend, revoke or refuse to renew the licence of a driver of a private hire vehicle or a Hackney Carriage, following the grant of a licence –  
  
for:- ***“any other reasonable cause”***.
11. Members are asked to consider what action, if any, should be taken against the licence held by Mr. TREGEA, in light of the above details.
12. Mr. TREGEA has been invited to attend this Licensing Committee in order that this matter may be considered.

By virtue of paragraph(s) 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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