

Public Document Pack



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LICENSING COMMITTEE (HACKNEY CARRIAGE)

DATE: THURSDAY 10 JUNE 2010
TIME: 10.00 AM
PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)

Members –
Councillors Bowie, Delbridge, Drean, Fox, Haydon, 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 15 April 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 HACKNEY DRIVER REVIEW OF LICENCE STATUS - M KOSTKA

(Pages 5 - 10)

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

7. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - J A HAJDUK

(Pages 11 - 18)

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

8. LICENSED HACKNEY DRIVER REVIEW OF LICENCE STATUS - L HARRISON

(Pages 19 - 26)

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

9. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - C SATURN (Pages 27 - 32)

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 PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - TAS (Pages 33 - 38)

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

12. LICENSED HACKNEY DRIVER REVIEW OF LICENCE STATUS - SGR (Pages 39 - 46)

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

13. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - AP (Pages 47 - 54)

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

14. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - TCW (Pages 55 - 60)

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

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Licensing Committee (Hackney Carriage)

Thursday 15 April 2010

PRESENT:

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

Apologies for absence: Councillor Rennie

The meeting started at 10.00 am and finished at 3.00 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.

146. DECLARATIONS OF INTEREST

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

147. MINUTES

Resolved that the minutes of the meetings held on 11 and 18 March 2010 are confirmed as a correct record.

148. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

149. APPEAL CASES

The Committee was informed that the council successfully opposed the appeal against the revocation of a private hire driver's licence heard at the magistrate's court on 15 March 2010. The applicant had now lodged an appeal to the Crown Court.

150. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - J LISKA

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from Mr Liska;
- (iii) heard details of Mr Liska's driving conviction;
- (iv) taken into account that Mr Liska;
 - stated he was unaware that non payment of premiums would invalidate his insurance;
 - was not driving in his capacity as a taxi driver at the time of the offence;
 - prior to this offence he had a clean driving record.

However, Members were concerned that as Mr Liska was a private hire driver he should adhere to the rules of the road at all times. He breached the terms of his private hire drivers licence by not informing

the licensing department of his conviction in writing with the requisite 7 days. He did not contact them until 4 January 2010 some 6 weeks later.

The decision of the Committee is that Members consider that as Mr Liska was a licensed private hire driver he should have regard to the rules of the road at all times and that it was irresponsible to be driving without insurance.

In addition he breached the conditions of his private hire driver's licence by not informing the licensing department of his conviction by the appropriate time. However, they accepted his explanation that he was unaware that the policy had been invalidated and therefore resolved that it was proportionate to suspend Mr Liska's private hire driver's licence for three days.

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

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from Mr Tregea;
- (iii) heard details of Mr Tregea's criminal convictions and history of breaches of laws and regulations;
- (iv) taken into account that Mr Tregea stated;
 - he currently had a clean driving licence;
 - that he did not hear the request from the lady travelling with the ill child;
 - that some of the reported incidents did not take place;
 - he had renewed efforts to control his smoking addiction.

However, Members were concerned that Plymouth City Council's taxi policy aimed to provide safe regulated transport and recognised both the needs of residents and visitors for safe, healthy, convenient and effective taxi transport.

Mr Tregea had a history of alleged and proven disregard for the health, safety and comfort of his customers. Since June 2006 he had received four letters of complaint from the public, a warning letter, two fixed penalty notices and a conviction in respect of his continual smoking in his hackney carriage, refusing to take wheelchair bound passengers to their destination and poor customer service.

The decision of the Committee is therefore that Members have considered Mr Tregea's version of the events which had led to his attendance at the committee.

The objectives of the hackney carriage and private hire vehicle licensing policy include the safety and health of drivers and the public and also vehicle safety, comfort and access. Mr Tregea's history of alleged and proven offences and poor customer care, breaches the laws relating to the use of licensed vehicles and in respect of his repeated smoking in his cab breaks the law on each occasion.

It was resolved to revoke Mr Tregea's licence finding him no longer a fit and proper person to hold a hackney carriage drivers licence.

152. **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.

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

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from the Licensing Officer;
 - that AP had not attended the committee hearing and no notification regarding his absence had been received;
 - that a letter requesting AP's attendance was sent to him on 1 April 2010 and further efforts had also been made to contact AP all of which had been unsuccessful;

Resolved to send a further request via recorded delivery to ensure AP's attendance at the next available committee so that they could question him in respect of his offences in order to reach an informed decision.

154. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - CS (E3 AND E7)**

The Committee having –

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

Resolved that the application to grant a private hire driver's licence be granted subject to the completion of Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within 12 months from the date of first being licensed.

155. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - RJP (E3 AND E7)**

The Committee having –

- (i) considered the report of the Director for Community Services;
- (ii) heard from RJP;
- (iii) heard details of RJP's convictions;
- (iv) heard from RJP's prospective employer;

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

156. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - CT (E3 AND E7)**

The committee having –

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

- (iv) heard from CT's husband.

Resolved that the restricted private hire driver's licence is granted subject to the completion of the pre-requisite tests and the completion of Level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent qualification within 12 months of being licensed.

157. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - AC (E3 AND E7)**

Due to AC's non attendance at Committee members have resolved that his application be held on file until such time as he contacts the licensing department.

158. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER LICENCE - TO (E3 AND E7)**

The Committee having –

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

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.

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Driver Licence Status
Committee: Licensing Committee (Hackney Carriage)
Date: 10 June 2010
Cabinet Member: Councillor Brookshaw
CMT Member: Director of Community Services
Author: Mark Small - Assistant Taxi Licensing Officer
Contact: Tel. 01752 307984
e-mail: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MS/mk
Part: I

Executive Summary:

Mr Michal Kostka is a Hackney Carriage driver having been first licensed by this Council on the 15 July 2008 as a Private Hire driver with a renewal of licence taking place on the 13 July 2009. On the 19 March 2010 Mr Kostka relinquished his Private Hire driver licence and retained his Hackney Carriage driver licence which is due to expire on 07 January 2011.

On the 19th March 2010, a letter was received from Mr Kostka informing the Licensing section that he had appeared at Plymouth Magistrates Court on the 12th March 2010 and had been disqualified from driving for a period of 6 months.

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

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)

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

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and 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.

Recommendations and Reasons for recommended action:

That Members of the Licensing Committee 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 Michal Kostka is a licensed Hackney Carriage driver having been first granted a licence to drive Private Hire vehicles by this Council on the 15th July 2008. The present licence held by Mr Kostka is due to expire on the 7th January 2011.
2. On the 19th March 2010, a letter was received from Mr Kostka informing the Licensing Section that he had appeared at Plymouth Magistrates Court on the 12th March 2010 and had been disqualified from driving for a period of 6 months. Officers subsequently requested a memorandum of conviction from Plymouth Magistrates Court which was supplied on the 25th March 2010 and provided the below information.

Details of his motoring disqualification are given below.

On 12 March 2010 at Plymouth Magistrates' Court.

2 x Counts of using a small passenger vehicle with tyre with insufficient tread – less than 1.6mm on 17.12.09, contrary to regulation 27(4) of the Road Vehicles (Construction and Use) Regulations 1986 and Section 41A of the Road Traffic Act 1988, and Schedule 2 to the Road Traffic Offenders Act 1988.

On the first count he was fined £70 and ordered to pay costs of £60 and a victim surcharge of £15. He also had his DVLA licence endorsed with 3 penalty points and disqualified from driving for a period of 6 months (driving disqualification was obligatory due to repeat offending). Mr Kostka's guilty plea was taken into account during sentencing. On the second count he was also fined £70

The background to this conviction is provided here for the information of members.

On the 17th December 2009, taxi enforcement officers were on a joint agency enforcement exercise with Police Traffic officers from the Devon and Cornwall Constabulary, when the licensed Private Hire vehicle number 1211, at that time owned and driven by Mr Kostka, was seen on Derry's Cross, Plymouth. Due to the defective tyres a Council prohibition notice was issued by the Taxi Licensing Officer and the Police Officer reported Mr Kostka for those offences which resulted in the court appearance.

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

On the 9th February 2009 convicted of Motor Vehicle Fail to Comply with red/green arrow/lane closure Flashing Light Signal, namely a red traffic signal on Plymouth Road on 10th August 2008, contrary to section 36(1) of the Road Traffic Act 1988, Regulation 10 of the Traffic Signs Regulations and General Directions 2002 and schedule 2 to the Road Traffic Offenders Act 1988.

Fined £60 and ordered to pay £15 victim surcharge, driving licence endorsed with 3 penalty points.

On the 9th February 2009 convicted of Exceeding the Speed Limit on a Public Road, namely Western Approach (south) on 8th August 2008, contrary to section 81(1) and 89(1) of the Road Traffic Regulations Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Fined £60 and licence endorsed with 3 penalty points.

On the 30th October 2009 convicted of Exceeding the Speed Limit on a Public Road, namely Manamead Road on 6th April 2009, contrary to section 81(1) and 89(1) of the

Road Traffic Regulations Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Fined £150 and ordered to pay costs of £85 and a victim surcharge of £15, driving licence endorsed with 3 penalty points.

It should be noted that the vehicles being used in each of the above offences was at the time of the offence a licensed Private Hire vehicle.

4. Members are no doubt aware that Mr Kostka appeared before them on the 11th March 2010 on a matter completely unconnected with that being presented to Members today for consideration.
5. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle for:-

“any other reasonable cause”.

6. In deciding whether Mr Kostka is a “fit and proper” person 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, the nature of the breach and any other information thought 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 driver's suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 – states that a criminal record does not automatically prevent an applicant from obtaining a licence unless the Council considers the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - states that motoring offences are relevant offences for considering the suitability of a person to retain a licence.

7. Members are asked to consider whether Mr Kostka is a "fit and proper" person in light of the matters contained within this report, which all relate to his use of a Private Hire vehicle licensed by this Council.
8. Mr. Kostka has been invited to attend this Licensing Committee in order that this review of his driver licence status can be considered.

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CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Driver Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 10 June 2010
Cabinet Member: Councillor Brookshaw
CMT Member: Director of Community Services
Author: Mark Small - Assistant Taxi Licensing Officer
Contact: Tel. 01752 307984
e-mail: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MS/jah
Part: I

Executive Summary:

Mr Jaroslaw Andrzej Hajduk is a Private Hire driver having been first licensed by this Council on the 13th April 2007, that licence has been subject to periodic renewal with the present licence being issued on the 13th April 2010 which expires on the 12th April 2013.

On the 24th March 2010 Mr Hajduk attended an appointment at the Civic Centre Licensing counter and it was noted that he had received multiple endorsements on his DVLA driver licence, and accumulated 19 penalty points in total on that driving licence.

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

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)

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

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and 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.

Recommendations and Reasons for recommended action:

That Members of the Licensing Committee 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 Jaroslaw Andrzej Hajduk is a Private Hire driver having been first licensed by this Council on the 13th April 2007, that licence has been subject to periodic renewal with the present licence being issued on the 13th April 2010 which expires on the 12th April 2013.
2. On the 24th March 2010 Mr Hajduk attended the Licensing Counter of the Civic Centre to renew his Private Hire driver licence which was due to expire on the 12th April 2010. During this transaction, the Licensing Clerk noted that Mr Hajduk had multiple endorsements on his DVLA counterpart and had accumulated a total of 19 penalty points on that licence. Advice was sought from a Taxi Licensing Enforcement Officer who then spoke with Mr Hajduk explaining that the renewal transaction would not take place until enquiries had been made with the DVLA regarding his licence status.
3. On the 25th March 2010 enquiries were made with the DVLA regarding the status of the driving licence status of Mr Hajduk, and DVLA confirmed the information contained on the DVLA counterpart was correct, which is provided below.

On 26th November 2007 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 5th May 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 3 penalty points.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 20th May 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 3 penalty points.

On 3rd December 2007 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 11th November 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £80 and driving licence endorsed with 3 penalty points.

On 21st December 2007 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 4th June 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 3 penalty points.

On 5th January 2009 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 18th November 2008, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £100 and driving licence endorsed with 3 penalty points.

On 16th November 2009 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 24th July 2009, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.

Fined £60 and driving licence endorsed with 4 penalty points.

At the time of writing this report Mr Hajduk has a total of 19 live penalty points endorsed on his DVLA driving licence.

Mr Hajduk was informed that his renewal of licence could proceed but that his licence status would be reviewed at a future Committee meeting.

4. Members are further advised that Mr Hajduk renewed his licence in April 2008 and March 2009. on both occasions he completed the application and stated that he had not received any criminal convictions. This was incorrect.
5. A standard condition of Licence exists which requires all Private Hire drivers to notify the Council of any convictions received during their licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(c) of the licence requires:-

*The licensed driver to notify the Council's Licensing Unit **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.*

Mr Hajduk has breached this condition of licence, as there is no trace of him having complied with this condition in respect of any of these convictions.

6. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle for:-

“any other reasonable cause”.

7. In deciding whether Mr Hajduk is a “fit and proper” person, 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.

Paragraph 18.5 requires the Committee to have regard to the following when considering previous convictions:

- Whether they are spent or unspent.
- The nature of the offence
- The age of the offence
- The apparent seriousness as gauged by the penalty
- The relevance of the convictions in relation to the promotion of the Licensing Objectives

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, the nature of the breach and any other information thought 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 driver's 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 will not automatically prevent any applicant from obtaining a licence unless the Council considers the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - states that motoring offences are relevant offences for considering the suitability of a person to 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.

6. By means of background information, Members are made aware that Mr Hajduk has been sent two warning letters from the Licensing Section which are produced with this report as appendix A and appendix B.
7. Members are asked to consider whether Mr Hajduk is a “fit and proper” person in light of the matters contained within this report, and in particular his antecedence of driving convictions all of which relate to speeding and have all been accrued during his period of holding a Private Hire driver licence. It must be stated however, that the last known speeding offence was committed on the 24th July 2009.
8. Mr Hajduk has been invited to attend this Licensing Committee in order that this review of his driver licence status can be considered.

Appendix A



ENVIRONMENTAL REGULATION SERVICE
Department of Development

Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

Tel: 01752 307964
Fax: 01752 226314
Email: environmental.regulation@plymouth.gov.uk
www.plymouth.gov.uk

Mr J A Hajduk

When calling or telephoning please ask for: Mark Small

My Ref: MS/LD/rank park

Date: 22 June 2007

Dear Mr Hajduk

Re: Ford Mondeo

Registered Number:

I write with reference to the above vehicle which is a licensed private hire vehicle number 1192 for which you are the licensed driver.

At approximately 1931 hours on 20 May 2007, it was noted that your vehicle was waiting on an authorised stand for Hackney Carriages in Raleigh Street, Plymouth.

I have to inform you that by virtue of Section 22(1) of the Plymouth City Council Act 1975 "***no person shall cause or permit any vehicle other than a Hackney Carriage to wait on any stand for Hackney carriages during any period for which that stand has been appointed***" and further Section 22(3) of the Act states, "***if any person without reasonable excuse contravenes the provisions of this Section, he shall be guilty of an offence***".

After consideration I have decided that, in this instance, no further action will be taken, but to warn you that should your vehicle again be observed contravening the above quoted legislation that prosecution may be likely to follow.

I trust that you understand the situation and that proceedings in the future will not be necessary.

Yours faithfully

Mark Small MIL CertHE (Licensing Law)(B'ham)
Senior Licensing Officer
Public Protection Service
Environmental Regulations

Appendix B



ENVIRONMENTAL SERVICES

Department of Community Services
Licensing Section
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

Tel: 01752 307984
Fax: 01752 307810
Email: taxi.licensing@plymouth.gov.uk
www.plymouth.gov.uk

Mr J A Hajduk

When calling or telephoning please ask for: Mark Small

My Ref: ERS/MS/enforce

Date: 14 December 2009

Dear Mr Hajduk

Subject: Disorderly Behaviour - Letter of Warning

Vehicle Licence Number: 1194

I have received a report that at 1.35pm on 07 December 2009, the driver of the above licensed Private Hire Vehicle was observed urinating against the rear wall of the pump house block situated in Car Park B on Bretonside. As you are the licence holder for that vehicle, it is a reasonable assumption to say that you were the driver at that time.

It is completely unacceptable for any driver licensed by the Council to be urinating in a public place, not only is this type of behaviour offensive, it is against the law.

You are strongly advised in future to utilise those public conveniences provided, or return to your operator or home to relieve yourself. Any future occurrences of this nature will result in the Council seeking a review of the status of your Private Hire driver licence, which could ultimately result in the licence being revoked.

This letter will remain on your file, and may be referred to in any future disciplinary proceedings.

I hope that this letter will serve as a reminder of those standards expected from a licensed driver, and that in future you will conduct yourself appropriately.

Yours sincerely

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

CITY OF PLYMOUTH

Subject: Licensed Driver – Review Status of Hackney Carriage Driver Licence

Committee Licensing Committee (Hackney Carriage)

Date: 10 June 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director of Community Services

Author: George Curness – Assistant Licensing Officer

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

Ref: ERS/LIC/GC/lh

Part: I

Executive Summary:

Mr. Lee Harrison is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 21 September 2000. He transferred to Hackney Carriage on 14 January 2004. Mr. Harrison's present licence is due to expire on 20 September 2010

On 12 April 2010, a letter was received from Mr Harrison outlining a Court appearance, where he was disqualified from driving for 6 months.

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

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)

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

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and 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.

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. Lee Harrison is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by the Council on the 21 September 2000. He transferred to Hackney Carriage on 14 January 2004. Mr. Harrison's present licence is due to expire on 20 September 2010.
2. On 12 April 2010, a letter was received from Mr Harrison outlining a Court appearance, where he was disqualified from driving for 6 months, see Appendix A. A memo of conviction was requested from Plymouth Magistrates' Court, which was received on 22 April 2010, and details the Court proceedings below.

On 9 April 2010, at Plymouth Magistrates' Court.

Convicted of using a hand held mobile phone. On 2 October 2009 at Plymouth, drove a motor vehicle, registration number MM05BNK, on a road, namely Union St, when using a hand held mobile telephone. Contrary to Regulation 110(1) of the Road Vehicles (Construction and Use) Regulations 1986, S.41D of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988

Mr Harrison was sentenced to a fine of £120, ordered to pay costs of £60 and his Licence endorsed with 3 penalty points.

Convicted of driving a motor vehicle otherwise than in accordance with a licence. On 2 October 2009, drove a motor vehicle, namely a Citroen MM05BNK on a road, namely Union St, otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class. Contrary to S.87(1) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988.

There was no separate penalty attached to this allegation.

Convicted of failing to comply with no entry sign. On 17 February 2010 at Plymouth being a person driving a vehicle, namely Dispatch Combi Citroen MM05BMK, failed to comply with the indication given by a no entry sign lawfully placed on or near a road, namely Connaught Avenue, Plymouth. Contrary to S.36(1) of the Road Traffic Act 1988, regulation 10 of the Road Traffic Signs Regulations 2002 and Schedule 2 of the Road Traffic Offenders Act 1988.

Mr Harrison was sentenced to a fine of £120 and ordered to pay victim surcharge of £15. Licence endorsed with 3 penalty points.

Mr Harrison was then disqualified from driving for 6 months under the "totting up" rules. Disqualification was obligatory due to repeat offending, exceptional hardship was not found.

Members are made aware that the vehicle used by Mr Harrison on these occasions is a Hackney Carriage, registration number MM05BMK, licence number 814, licensed by this Council.

3. Background information is supplied to Members regarding Mr Harrison. On 31 August 2007, Officers sent a letter of warning to Mr Harrison regarding an incident of him using a mobile phone whilst driving in Saltash Road, this letter followed a verbal warning by Officers for using a mobile phone in Princess St. A complaint from a member of the Public was received on 9 February 2009, regarding the driving standards of Mr Harrison, this was dealt with by way of a warning letter sent to him on 13 February 2009.

Mr Harrison has been stopped on routine patrols when his vehicle has been the subject of roadside inspections. On 23 October 2008, the vehicle with VRM; T231JLL and licence plate 814, owned and driven by Mr Harrison was inspected by Officers. An immediate prohibition notice was issued as the vehicle was found to have three tyres worn to excess. On 12 July 2009 the same vehicle was the subject of a roadside inspection and an immediate prohibition notice was issued as the vehicle was found to have two tyres worn to excess, the rear bumper was not secured properly and the rear passenger window was jammed closed with a screwdriver. On both occasions the notices were lifted on subsequent production of the vehicle in roadworthy condition.

An inspection of the DVLA licence held by Mr Harrison reveals that, on 5 September 2001, at Plymouth Magistrates' Court, Mr Harrison had acquired 12 penalty points and was liable to have his DVLA licence disqualified. Magistrates did not disqualify at this time as they found exceptional hardship for not disqualifying. Following this, and prior to the appearance in Plymouth Magistrates' Court on 19 April 2010, Mr Harrison's DVLA licence was endorsed with 3 penalty points on 29 February 2004 for a Pedestrian Crossing offence and on 3 May 2007 Mr Harrison's DVLA licence was endorsed with 3 penalty points for using a mobile phone while driving, he was given fixed penalty fines on both occasions.

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, who has since the grant of a licence for:-

“any other reasonable cause”.

5. In deciding whether Mr. Harrison is a fit and proper person, 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** - 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.

Paragraph 18.5 requires the Committee to have regard to the following when considering previous convictions:

- Whether they are spent or unspent.
- The nature of the offence
- The age of the offence
- The apparent seriousness as gauged by the penalty
- The relevance of the convictions in relation to the promotion of the Licensing Objectives

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.

Paragraph 8.2 - requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, the nature of the breach and any other information thought 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 retraining, should the driver's suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 – states that a criminal record does not automatically prevent an 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 a motoring conviction is a relevant offence for considering the suitability of a person to hold or retain a licence, and includes disqualification from driving a motor vehicle at any time in the five years prior to applying for a licence, the time to run from the expiry of the disqualification.

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.

6. This background history and the disqualification on 19 April 2010, gives concern to Officers as they believe that Mr Harrison has shown a marked disregard for the rules of the road and to the maintenance of his vehicle, which illustrates a lack of regard to public safety.
7. Mr. Harrison has been invited to attend this Licensing Committee in order that this matter may be considered.

RECEIVED
PUBLIC PROTECTION SERVICE
13 APR 2010
F.A.O.

LEE HARRISON,



12/4/2010

Dear Sir,

It is with regret I must inform your office that on Friday last in Plymouth Magistrates Court, I pleaded guilty to, and was convicted of driving offences. These taking my points total beyond 12, resulted in a driving prohibition.

I trust that this letter satisfactorily fulfils my obligation to inform your office of convictions received whilst licensed as a Hackney Carriage Driver in the City of Plymouth.

May I also take this opportunity to make clear my firm intention, with the permission of the Licensing (Hackney Carriage) committee to resume driving a Taxi on completion of my ban.

Yours sincerely, *Lee Harrison*

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CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Driver Licence Status
Committee: Licensing Committee (Hackney Carriage)
Date: 10 June 2010
Cabinet Member: Councillor Brookshaw
CMT Member: Director of Community Services
Author: George Curness – Assistant Licensing Officer
Contact: Tel. 01752 307964
e-mail: george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/cs
Part: I

Executive Summary:

Mr. Robert Catalin Saturn is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 11 June 2009. This is due to expire on 10 June 2010.

On 19 April 2010 a note was received from Mr Saturn stating that he had received 3 penalty points on his DVLA driver licence. A memo of conviction was requested from Plymouth Magistrates' Court and received on 22 April 2010, which details the motoring conviction in this report.

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

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)

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

Not applicable.

Other Implications: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and 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.

Recommendations and Reasons for recommended action:

That Members of the Licensing Committee 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. Robert Catalin Saturn is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 11 June 2009. This is due to expire on 10 June 2010.
2. On 19 April 2010 a note was received from Mr Saturn stating that he had received 3 penalty points on his DVLA driver licence. A memo of conviction was requested from Plymouth Magistrates' Court and received on 22 April 2010.

Details of this motoring conviction are given below.

On 9 October 2009 at Plymouth Magistrates' Court.

Mr Saturn was convicted of stopping a vehicle within pedestrian crossing limits. On 29 September 2009 at Plymouth, being the driver of a vehicle, namely a motor car VRM LD03HRR, caused it or part of it to stop within the limits of a pelican crossing on North Hill Plymouth.

Contrary to Regulation 18 of the Zebra, Pelican and Puffin crossings Regulations 1997, S.25(5) of the Road Traffic Regulation Act 1984, and Schedule 2 to the Road Traffic Offenders Act 1988

Mr Saturn was fined £60 and ordered to pay a victim surcharge of £15, his DVLA licence was endorsed with 3 penalty points.

Members are made aware that the vehicle LD03HRR is a licensed private hire vehicle, rented by Mr Saturn at the time of the offence.

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 for:-

“any other reasonable cause”.

4. In deciding whether Mr Saturn is a fit and proper person, 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 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 10.2 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 a criminal record does not automatically prevent an 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 a motoring offence is a relevant offence for considering the suitability of a person to 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.

5. The motoring offence mentioned in this report was committed during the first year of

Mr. Saturn holding a Private Hire driver's licence.

6. Members are made aware that Mr Saturn has yet to complete the Level 2 BTEC award, Transporting Passengers by Taxi and Private Hire.
7. Members are made aware that a condition of Private Hire drivers is that at the time of these convictions Mr. Saturn 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 Licensing Section, 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.

Members are made aware that Mr Saturn pleaded guilty to the offence on 9 October 2009, but did not appear in Court. He was ordered to pay his fine by 30 November 2009. Mr Saturn was therefore aware of the conviction and fine etc, but did not inform the Licensing Office until 19 April 2010, thereby breaching his conditions of licence.

8. Members are asked to consider whether Mr Saturn is a "fit and proper" person in light of the above conviction and breach of condition.
9. Mr. Saturn has been invited to attend this Licensing Committee in order that this matter may be considered.

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of the Local Government Act 1972.

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