

# Public Document Pack



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

**DATE: THURSDAY 2 DECEMBER 2010**  
**TIME: 10AM**  
**PLACE: COUNCIL HOUSE, PLYMOUTH (NEXT TO THE CIVIC CENTRE)**

### **Members –**

Councillor Fox, Chair  
Councillor Delbridge, Vice Chair  
Councillors Bowie, Drean, 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.*

*Please note that, unless the Chair agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used during meetings.*

**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 - 6)**

To confirm the minutes of the meeting held on 4 November 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 - C E SAVU**

**(Pages 7 - 12)**

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

**7. 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.

**8. LICENSED HACKNEY CARRIAGE DRIVER APPLICATION FOR EXEMPTION - MC (E3 AND E7) (Pages 13 - 20)**

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

**9. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - PFC (E3 AND E7) (Pages 21 - 26)**

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

**10. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - RVM (E3 AND E7) (Pages 27 - 42)**

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

**LUNCH 1PM - 2PM**

**11. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - RMD (E3 AND E7) (Pages 43 - 52)**

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

**12. LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENSE STATUS - KH (E3 AND E7) (Pages 53 - 64)**

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 4 November 2010

### PRESENT:

Councillor Fox, in the Chair.  
Councillor Delbridge, Vice Chair.  
Councillors Bowie, Drean, Haydon, Rennie and Reynolds.

Also in attendance: George Curness (Assistant Licensing Officer), James Hirst (Assistant Licensing Officer) and Andrea Gilbert (Lawyer).

The meeting started at 10.00 am and finished at 3.05 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.*

### 73. DECLARATIONS OF INTEREST

The following declaration of interest was made in accordance with the Code of Conduct in relation to an item under discussion at this meeting –

Name	Subject	Reason	Interest
Councillor Rennie	Minute 84 -Application for the grant of a Hackney Carriage Driver's Licence	Relation	Personal/Prejudicial

### 74. MINUTES

Agreed that the minutes of the meeting held on 30 September 2010 are confirmed as a correct record.

### 75. CHAIR'S URGENT BUSINESS

There were no items of Chair's Urgent Business.

### 76. APPEAL CASES

The committee was advised that there had been no new appeal cases since the last committee meeting.

### 77. LICENSED PRIVATE HIRE DRIVER REVIEW OF LICENCE STATUS - D P TAPPER

The committee having –

- (a) considered the report of the Director for Community Services;

- (b) heard from Mr Tapper;
- (c) heard details of Mr Tapper's motoring offences;
- (d) taken into account that Mr Tapper -
  - had declared his second driving conviction to the Licensing Department in the correct manner;
  - was now concentrating more on his driving and had reduced his working hours to improve his awareness;
  - did not have a passenger on board when he committed the traffic signal offence.
- (e) however, councillors were concerned that –
  - Mr Tapper had committed two driving offences in less than five weeks;
  - he had accumulated nine points on his driving licence;
  - the conviction that Mr Tapper received on 14 September 2009 was not declared to the Licensing Department as required by the conditions of his Private Hire Driver's Licence and by his own admission he cannot remember posting this notification, although he did state that he did have one written;
  - during questioning by councillors Mr Tapper stated that he did occasionally speed on the motorway.

Agreed that Mr Tapper's convictions both related to motoring offences and both were committed since the commencement of his employment as a Private Hire Driver. The offences show that Mr Tapper's attention to the road has reduced and this gives rise to concern for public safety. Councillors have therefore elected to apply their discretion under Section 10.2 of the Hackney Carriage and Private Hire Vehicle Licensing Policy and direct Mr Tapper to complete the Level 2 VRQ in Transporting Passengers by Taxi and private Hire or equivalent within the next 12 months. If training is not completed by this time, Mr Tapper will be called to attend before the committee to explain his actions and his license will be reconsidered.

78. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - K W ELLIOT**

The committee having –

- (a) considered the report of the Director for Community Services;

- (b) heard from Mr Elliott;
- (c) heard details of Mr Elliott's motoring convictions;
- (d) taken into account that Mr Elliot –
  - verbally advised the Licensing Department of one conviction;
  - stated that he attended at the Licensing Department in January 2010 to produce his driving licence although no record can be found of his visit;
  - said that he could not provide his driving licence at the appropriate time to the police or Licensing Department as this was with the DVLA for an address amendment;
  - had accumulated a total of 12 penalty points but was not disqualified by the Court due to exceptional hardship the reasons being that it would lead to loss of employment as a taxi driver.
- (e) however councillors were concerned that –
  - Mr Elliott had accumulated 12 points in approximately 12 months since he changed your Private Hire Driver's Licence to a Hackney Carriage Driver in September 2009. All points had therefore been acquired since he became a licensed taxi driver;
  - all four offences were required to be reported under the Hackney Carriage Byelaws and Private Hire Driver's Licence conditions. No such reports were received at the Licensing office;
  - the Licensing Officer's records showed that they made five requests by telephone and letter before Mr Elliott finally attended some six months later with his DVLA counterpart. This appeared to indicate a degree of evasiveness or at best reluctance to reveal the true extent of his convictions to the Licensing Department as required under the Hackney Carriage byelaws and Private Hire Driver's licence conditions;
  - since June 2009, Mr Elliott had been convicted of two speeding offences, an offence of using a motor vehicle with a defective tyre and an offence of driving whilst using a mobile telephone. These all give rise for serious concerns for public safety;

- although Mr Elliott had motoring convictions when he applied to become a Private Hire Driver in September 2008, Councillors of the committee decided to trust that his offending days were over and gave him an opportunity to prove that this was so. Within 12 months he had committed another offence, soon followed by others;
- on his own admission it was the driver's responsibility to check the safety of the tyres but he failed to do so;
- the last offence was committed only three months ago.

Agreed that the nature of Mr Elliott's four motoring offences committed over a 12 month period demonstrates a clear and strong disregard for the safety of the public at large and also his passengers who are entitled to feel and be safe in his vehicle. In addition Mr Elliott had breached the Plymouth City Council Hackney Carriage Byelaws and Private Hire Driver's Licence conditions by his actions in ignoring the Licensing Department's requests to attend to provide satisfactory evidence that he remained safe to drive a Hackney Carriage vehicle. Councillors have elected to apply Section 19(1)(b) of the Plymouth City Council Act 1975 and revoke Mr Elliott's licence as they no longer consider that he is a fit and proper person.

79. **EXEMPT INFORMATION**

Agreed that under Section 100(A)(2) and (4) of the Local Government Act 1972, the press and public are excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of confidential/exempt information as defined in paragraph 4 of Part 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

80. **CONFIDENTIAL MINUTES**

Agreed that the confidential minutes of the meeting held on 30 September 2010 are confirmed as a correct record.

(Councillor Bowie was present for the following items 81, 82, 83, 84 and 85)

81. **LICENSED HACKNEY CARRIAGE DRIVER REVIEW OF LICENCE STATUS - KH**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from KH;
- (c) heard from KH's representative Mr Wildman.



Councillors considered KH's request to adjourn the hearing and have agreed on the basis that KH's right to a fair hearing was impaired by his problems in obtaining legal or other representation. This agreement is on the proviso that the hearing is adjourned to the next committee date and councillors made KH aware that should he choose not to attend or to attend without representation, then the hearing will take place in his absence and all sanctions against his licence will be considered.

82. **APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - AMP (E3 AND E7)**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from AMP;
- (c) taken into account all that was said.

Agreed the application for a Private Hire Driver's Licence is granted and that AMP is required to complete the VRQ, or equivalent driver qualification in 'Transporting Passengers by Taxi and Private Hire' within the first 12 months of any licence being issued to him.

(Councillor Reynolds was not present for items 82, 83, 84, 85)

83. **APPLICATION FOR THE GRANT OF A RESTRICTED PRIVATE HIRE DRIVER'S LICENCE - PJF**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from PFJ;
- (c) taken into account all that was said.

Agreed the application for a Restricted Private Hire Driver's Licence is granted and that PFJ is required to complete the VRQ, or equivalent driver qualification in 'Transporting Passengers by Taxi and Private Hire' within the first 12 months of any licence being issued to him.

84. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - TRR**

The committee heard that TRR was not present and as such his application would be discontinued.

(Councillor Rennie declared a personal and prejudicial interest in this matter and left the room)

85. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - SLH**

The committee having –

- (a) considered the report of the Director for Community Services;
- (b) heard from SLH;
- (c) taken into account all that was said.

Agreed that the application for a Hackney Carriage Driver's Licence is granted and that SLH is required to complete the prerequisites for the grant of a licence the knowledge of Plymouth test, the driving standards test and the medical examination. SLH is also required to complete a Level 2 VRQ driver qualification in 'Transporting Passengers by Taxi and Private Hire' or equivalent within the first 12 months of any licence issued.

**CITY OF PLYMOUTH**

**Subject:** Licensed Private Hire Driver Review of Licence Status  
**Committee:** Licensing Committee (Hackney Carriage)  
**Date:** 2 December 2010  
**Cabinet Member:** Councillor Brookshaw  
**CMT Member:** Director for Community Services  
**Author:** Mark Small - Taxi Licensing Officer  
**Contact:** Tel: 01752 307984  
e-mail: mark.small@plymouth.gov.uk  
**Ref:** ERS/LIC/MS/ces  
**Key Decision:** No  
**Part:** I

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**Executive Summary:**

Mr Cornel Eusebio Savu is a Private Hire driver having been first licensed by this Council on the 15<sup>th</sup> March 2010 and that licence is due to expire on the 14<sup>th</sup> March 2011.

On the 7<sup>th</sup> June 2010 the drivers Private Hire operator returned his copy of the Private Hire driver licence held by Mr Savu to the Licensing Section with a note explaining that Mr Savu had been banned from driving in his home country for a period of two months. Further information was also received from the operator a few days later, relating to the accident.

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

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**Corporate Plan 2010 – 2013 as amended by the four new priorities for the City and Council:**

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

Improving access across the city.

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

Not applicable.

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

Members should be aware that Section 17 of the Crime 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:**

None

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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 Cornel Eusebio Savu is a Private Hire driver having been first licensed by this Council on the 15<sup>th</sup> March 2010, that licence is due to expire on the 14<sup>th</sup> March 2011.
2. On the 7<sup>th</sup> June 2010, a note was received from Mr Savu's Private Hire operator which enclosed the operator copy of the Private Hire driver licence held by Mr Savu, together with a note stating that Mr Savu had received a driving ban in Romania for a period of two months.

On the 8<sup>th</sup> June 2010, a further communication was received from Mr Savu's Private Hire operator enclosing a printed copy of an email they had received from him on the 29<sup>th</sup> May. This email informed the operator that Mr Savu expected to be disqualified from driving for a period of two months as a result of an accident which was his fault. The email explained the circumstances of the incident, and is provided as appendix A to this report as background information.

3. Mr Savu did not inform the Licensing Section of his motoring disqualification until 23<sup>rd</sup> September, when he contacted the Licensing Section by email asking information about his licence status as his Private Hire operator had refused to accept him back at that time. Mr Savu was asked to provide information regarding the disqualification, and was informed that the matter would have to be considered by Members of the Licensing Committee (Hackney Carriage). Mr Savu provided authenticated documents, with English translations, from Romania concerning his motoring conviction, and that information is provided below.

On 23<sup>rd</sup> May 2010 Driver's licence retained due to accident, suspended for 90 days.

4. 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 Savu has breached this condition of licence, as there is no trace of him having supplied written communications within the specified time.

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 Savu 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 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, 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 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.

7. Members are asked to consider whether Mr Savu is a “fit and proper” person in light of the matters contained within this report, and in particular his driving conviction which has been accrued during his three months of holding a Private Hire driver licence.
8. Mr Savu has been invited to attend this Licensing Committee in order that this review may be considered.

Appendix A

**To:** info  
**Subject:** problem with D880 [Scanned]

Please convey this message to the appropriate authority within taxifast!

I am Cornel Savu, one of your relatively new drivers, delta 880.  
I am sorry to have to inform you that I cannot come back to work from my holliday by the due time, i.e. on the 3rd of June.  
I have been involved in a car accident in my country, and the fault was mine; therefore I am going to have my driving licence suspended for about two months, depending on the police resolution upon the case. There were no casualties, but the cars were seriously damaged: when I turned right into a main road at a junction, I took the left hand side lane, which is right in England, but wrong on the continent, so I frontally bumped into an oncoming car. The accident could not be avoided for lack of visibility behind a bent on the main road; both drivers were confident they were doing well, which I should not have done.  
I intend to resume my work as a driver in England after I will have recovered my licence, towards autumn most likely. Please let me know whether that is at all possible on your part.  
With due apologies,

Cornel S a v u.



6/7/2010



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

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