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10 April 2013

## **TAXI LICENSING COMMITTEE**

Thursday 18 April 2013  
10am  
Council House, Plymouth (Next to the Civic Centre)

**Members:**

Councillor Haydon, Chair  
Councillor Bowie, Vice Chair  
Councillors Mrs Foster, Mrs Nicholson, Rennie, Ricketts and Singh.

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

**Tracey Lee**  
Chief Executive

# **TAXI LICENSING COMMITTEE**

## **AGENDA**

### **PART I – PUBLIC MEETING**

#### **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 28 March 2013.

#### **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 - D S GILBERY (Pages 7 - 12)**

The Director for Place will submit a report on a licensed private hire driver review of licence status.

#### **7. LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - N L JORDAN (Pages 13 - 18)**

The Director for Place will submit a report on a licensed hackney carriage driver review of license status.

#### **8. LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - P MARASESCU (Pages 19 - 28)**

The Director for Place will submit a report on a licensed private hire driver review of licence status.

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

### **9. 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 I Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

## **PART II (PRIVATE MEETING)**

### **AGENDA**

#### **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.

#### **10. LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - MAS (E3 AND E7) (Pages 29 - 34)**

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

#### **11. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - MJD (E3 AND E7) (Pages 35 - 40)**

The Director for Place will submit a report on an application for the grant of a hackney carriage driver's licence.

#### **12. APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE - GCT (E3 AND E7) (Pages 41 - 46)**

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

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## Taxi Licensing Committee

Thursday 28 March 2013

### PRESENT:

Councillor Bowie, Vice Chair in the Chair.

Councillor Mrs Nicholson, Vice Chair.

Councillor Casey (substitute for Councillor Haydon), Mrs Foster, Rennie and Singh.

Apologies for absence: Councillors Haydon and Ricketts.

Also in attendance: George Curness (Licensing Officer), Andrea Gilbert (Legal Officer) and Helen Wright (Democratic Support Officer).

The meeting started at 10 am and finished at 2.35 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.*

124. **APPOINTMENT OF VICE CHAIR**

The committee agreed to appointment Councillor Mrs Nicholson as Vice Chair for this particular meeting.

125. **DECLARATIONS OF INTEREST**

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

126. **MINUTES**

Agreed that the minutes of the meeting held on 28 February 2013 are confirmed as a correct record subject to the amendment 'Singh' (minute 110. Refers).

127. **CHAIR'S URGENT BUSINESS**

There were no items of Chair's urgent business.

128. **APPEAL CASES**

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

129. **LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - N L JORDAN**

The committee heard that due to personal circumstances Ms Jordan was not able to attend this meeting of the committee.

The committee agreed to adjourn this matter to the next appropriate meeting due to the severity of Ms Jordan's personal circumstances which had led to her non-attendance at this meeting.

130. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - D S GILBERY**

Due to Mr Gilbery's non-attendance at this meeting, the committee agreed to defer this matter to the next committee meeting and that the case would be heard in Mr Gilbery's absence at which the committee could use its powers to suspend or revoke his licence.

131. **LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - F J MARTIN**

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from Mr Martin;
- (c) heard from Mr Martin's representative, Mr Wildman;
- (d) took the following into consideration that –
  - Mr Martin was going through great personal difficulties at the time of the speeding offences;
  - Mr Martin had stated that on one of the speeding occasions he had a passenger in his vehicle;
  - Mr Martin's explanation regarding the notification of his latest offence was accepted;
- (e) was concerned that -
  - it had been noted that Mr Martin received a fixed penalty notice on 6 January 2012 for speeding and received three penalty points; this offence was repeated on 22 January 2013 and he received the same fine and penalty;
  - by Mr Martin's own admission he failed to report his offences in the correct manner on two occasions;

- on 30 October 2012 Mr Martin was convicted for speeding on a public road and was disqualified from driving for six months due to repeat offending; however, this disqualification was suspended and a later appeal hearing against sentence which took place on 4 January 2013 was successful.

The Hackney Carriage and Private Hire Drivers' Licensing Policy stated that motoring offences were relevant offences for considering the suitability of a person to retain a licence. In addition Section 19 of the Plymouth City Council Act, 1975 enabled the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage Vehicle for any other reasonable cause.

Members considered that as Mr Martin is a licensed Hackney Carriage driver he should have regard to the rules of the road and the licensing authority at all times.

The committee agreed to suspend Mr Martin's licence for two days in view of his failure to report his earlier speeding offences in writing as required by the Hackney Carriage Bylaws.

The committee further agreed due to concerns regarding his propensity to speed and the fact that these offences had been committed over a short period of time, the Taxi Licensing Committee has the discretion to direct a driver appearing before it to complete further training or retraining, should the driver's suitability to retain a licence be called into question; the committee direct that Mr Martin is required to obtain the level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent within the next 12 months and attend at the licensing department when this has been attained. Should this qualification not be completed by April 2013, Mr Martin will be brought back before the committee and all sanctions against his licence will be considered.

132. **LICENSED PRIVATE HIRE DRIVER - REVIEW OF LICENCE STATUS - P SICH**

The committee –

- (a) considered the report of the Director for Place;
- (b) heard from Mr Sich;
- (c) took into account –
  - that he chose to dispose of his speeding offence by attending a speeding awareness course but did not receive the appointment date due to postal issues and lost his opportunity, resulting in attendance and court;
  - that Mr Sich stated that he did not have any passengers in his vehicle when he committed the three offences;
  - that Members accepted that he was unable to report his October 2012 conviction in the correct manner because he was out of the country;

(d) was concerned that -

- on 30 August 2010, he was convicted of using a vehicle with a defective tyre;
- on 31 March 2011, he was convicted of using a mobile phone;
- on 30 October 2012 he was convicted of speeding and received a substantial fine of £300;
- despite a warning given from an earlier committee not to commit any further offences, which would lead to a further appearance before it, he committed a speeding offence and had now had to attend for a second time within 12 months.

The Hackney Carriage and Private Hire Drivers' Licensing Policy stated that motoring offences were relevant offences for considering the suitability of a person to retain a licence.

In addition Section 19 of the Plymouth City Council Act 1975, enabled the Council to suspend, revoke or refuse to renew the licence of a driver of a private hire vehicle for any other reasonable cause.

In view of Mr Sich's speeding offence which gives rise to concern for public safety, the committee agreed to suspend his licence for two days.

The committee further agreed that it had the discretion to direct drivers appearing before it to complete further training or retraining, should the driver's suitability to retain a licence be called into question; the committee direct that Mr Sich is required to obtain the level 2 VRQ in Transporting Passengers by Taxi and Private Hire or equivalent within the next 12 months and attend at the licensing department when this had been attained; should this qualification not be completed by April 2014, Mr Sich will be brought back before the committee and all sanctions against his licence will be considered

(Councillor Mrs Nicholson was not present for the following items on the agenda).

133. **EXEMPT INFORMATION**

Agreed that 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.

134. **LICENSED HACKNEY CARRIAGE DRIVER - REVIEW OF LICENCE STATUS - MAS (E3 AND E7)**

The committee heard from the Licensing Officer that MAS had made a request to adjourn this matter to enable his legal representative to attend.

The committee agreed to adjourn this matter to the next appropriate committee meeting for consideration.



## **Order of Business**

With the permission of the Chair, the order of business on the agenda was amended, as set out below in the minutes.

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

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from ACH.

The committee agreed to grant ACH's application for a private hire driver's licence subject to him completing all the pre requisites for the grant of a licence and also subject to him satisfactorily completing the VRQ driver qualification in 'Transporting Passengers by Taxi or Private Hire' or equivalent within the first 12 months of being granted the licence.

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

The committee –

- (a) considered the report from the Director for Place;
- (b) heard from KCJ.

The committee agreed to grant KCJ's application for a private hire driver's licence subject to him completing all the pre requisites for the grant of a licence and also subject to him satisfactorily completing the VRQ driver qualification in 'Transporting Passengers by Taxi or Private Hire' or equivalent within the first 12 months of being granted the licence.

137. **APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE DRIVER'S LICENCE - BLS (E3 AND E7)**

Due to BLS's non-attendance at committee, the committee agreed that his application for the grant of a hackney carriage driver's licence is held on file until such time as he contacts the licensing department and that he is requested to complete a Disclosure Barring Service check and also a medical examination prior to coming before committee.

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**PLYMOUTH CITYCOUNCIL**

Subject: Licensed Private Hire Driver - Review of Licence Status  
Committee: Taxi Licensing Committee  
Date: 18 April 2013  
Cabinet Member: Councillor Coker  
CMT Member: Anthony Payne (Director for Place)  
Author: Mark Small (Taxi Licensing Officer)  
Contact details: Tel: 01752 307984  
Email: mark.small@plymouth.gcsx.gov.uk  
Ref: ERS/LIC/MTS/dsg  
Key Decision: No  
Part: I

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**Purpose of the report:**

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr David Stephen Gilbery, having due regard for the information contained within the report, any representations made by him and the Taxi Licensing Policy of the Council.

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**Corporate Plan 2012 - 2015:**

This report links to the delivery of the City and Council priorities.  
In particular : Provide value for Communities.

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

Not applicable.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management:**

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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## Equality and Diversity

Has an Equality Impact Assessment been undertaken? Yes /No\* please delete as necessary

**Recommendations and Reasons for recommended action:**

Members of the Taxi Licensing Committee consider this report.

**Alternative options considered and rejected:**

None.

**Published work / information:**

None.

## Background papers:

None.

**Sign off:**

Fin		Leg	SD/I 2.3.1 3/16 840	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

## Report

1. David Stephen Gilbery is a licensed Private Hire driver, having been first granted a driver's licence by this Council on 21 November 2003. This licence was subject to periodic renewal until he transferred to a Hackney carriage driver licence on the 17 September 2007. This licence expired without renewal on the 20 November 2007. Mr Gilbery re-applied for a Private Hire driver licence which was granted on 7 November 2008 and his current licence is due to expire on 11 December 2013.
2. On the 12 December 2012 David Gilbery attended an appointment at the Civic Centre to renew his Private Hire driver licence and completed a renewal of licence application form for that purpose. Section 3 of that form requires the disclosure of any previous convictions, and in the space provided Mr Gilbery has entered information relating to motoring convictions he received in August 2009 and December 2010. Below this disclosure the following question is asked; **'Has/have this/these offence(s) previously been reported to the licensing section?'** Following this question two boxes are supplied to indicate an answer, a box for 'Yes' and a box for 'No'. Mr Gilbery has placed a cross in the 'Yes' box indicating this to be his answer.
3. When Mr Gilbery attended his appointment to renew his licence he produced his DVLA driving licence for examination, which revealed the following endorsements:

Convicted on 10 August 2009 for an offence of exceeding the speed limit on 02 February 2009. He was fined £60 and his licence endorsed with three penalty points.

Convicted on 17 December 2010 for an offence of exceeding the speed limit on 12 June 2010. He was fined £350 and his licence endorsed with four penalty points.

Mr Gilbery therefore has four live penalty points endorsed on his DVLA licence.
4. An examination of the driver file belonging to Mr Gilbery revealed that the speeding conviction received on the 10 August 2009 had been notified to the licensing section on 24 September 2009. However, there is no record of the conviction on the 17 December 2010 being notified as required by condition of licence.
5. There are standard conditions attached to the grant of a Private Hire driver licence for all licence holders. Condition 1(c) requires the licence holder to notify the Licensing Unit in writing within 7 days of receiving a conviction in a court of law in respect of any motoring offences following the grant of a licence. It would appear that this condition of licence has been breached by the failure of Mr Gilbery to inform the Licensing Unit of the motoring conviction received on the 17 December 2010 and the late notification of the August 2009 conviction.
6. Members are made aware that during his term as a licence holder, Mr Gilbery has appeared before the committee on the 19 July 2005 and 20 December 2005 in respect of failing to comply with licensing conditions for which his private hire driver's licence was suspended on each occasion. He had also been due to appear before the committee in respect of further breach of licence conditions in November 2007 but Mr Gilbery failed to attend and his licence subsequently expired without renewal and so the matter was not progressed.

7. In respect of the Private Hire driver licence, 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 Private Hire vehicle for any other reasonable cause.
8. In reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. The relevant parts of the Council's policy are detailed below:

### **General Policy**

The Council's Hackney Carriage and Private Hire licensing policy states that the Council will carry out its Hackney Carriage and Private Hire licensing function with a view to promoting stated objectives. Members must therefore ensure that they consider those objectives when forming a decision.

The Licensing objectives are as follows:

1. Safety and health of drivers and the public – e.g.
  - Consideration of history of convictions and cautions
  - Driver training, qualification and performance
  - Health and Fitness to fulfil the role
  - Crime prevention measures
2. Vehicle safety, comfort and access
3. To prevent crime and disorder and to protect consumers – e.g.
  - Commitment to work with the police and licensing authorities
4. To encourage environmental sustainability

### **Chapter 2. – Conditions of Licence**

Paragraph 12.3 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy 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)
- 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 where a breach of 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, and any other information thought pertinent to the matter being considered.

Paragraph 10.2- Gives the Committee the discretion to direct a driver appearing before them to complete further training or retraining, should the drivers' suitability to retain a licence be called into question.

### **Guidelines 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 it is considered that 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 when considering the suitability of a person to hold or retain a licence.

Paragraph 8 – States that any driver who receives a conviction within their license period will be referred to the Taxi Licensing Committee in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

9. Mr Gilbery obtained the NVQ Level 2 driver qualification in 2009.
10. Mr Gilbery has been invited to attend this Taxi Licensing Committee in order that the matters contained within this report may be considered.

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**PLYMOUTH CITY COUNCIL**

Subject: Licensed Hackney Carriage Driver – Review of Licence Status  
Committee: Taxi Licensing Committee  
Date: 18 April 2013  
Cabinet Member: Councillor Coker  
CMT Member: Anthony Payne (Director for Place)  
Author: Mark Small (Taxi Licensing Officer)  
Contact: Tel: 01752 307984  
Email: mark.small@plymouth.gcsx.gov.uk  
Ref: ERS/LIC/MTS/njl  
Key Decision: No  
Part: I

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**Purpose of the report:**

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

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**Corporate Plan 2012 - 2015:**

This report links to the delivery of the City and Council priorities.  
In particular : Provide value for Communities.

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

Not applicable.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management:**

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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## Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes /No\* please delete as necessary

**Recommendations and Reasons for recommended action:**

Members of the Taxi Licensing Committee consider this report.

**Alternative options considered and rejected:**

None.

**Published work / information:**

None.

## Background papers:

None.

**Sign off:**

Fin		Leg	SD/I 2.3.1 3/16 838	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

## Report

1. Nicola Louise Jordan is a licensed Hackney Carriage driver, having been first granted a Hackney Carriage driver's licence by this Council on 28 August 2009. Her current licence is due to expire on 27 August 2013.
2. On the 23 November 2012 Nicola Jordan informed the Licensing Section in writing in a letter dated the 21 November 2012 that she had been convicted of a motoring offence on 9 November 2012.
3. On 9 January 2013 a memorandum of conviction was requested from Plymouth Magistrates Court who supplied the information below.

### **On 9 November 2012 at South and West Devon Magistrates Court**

Convicted of Exceeding the Speed Limit on a Public Road, namely Gydnia Way Plymouth on 23 December 2011.

She was fined £60 and her licence was endorsed with three penalty points.

4. Miss Jordan has 12 live penalty points endorsed on her DVLA driver licence and in ordinary circumstances Miss Jordan would have been disqualified from driving. Miss Jordan pleaded that disqualification would cause her exceptional hardship and the Magistrates found in her favour allowing her to retain her DVLA driving licence.
5. On 9 October 2011 Miss Jordan had her hackney carriage vehicle licence suspended in respect of the vehicle having two defective tyres. One tyre was showing cord, the other had approximately half the minimum tread depth as required by law. The Taxi Licensing Officer issued a prohibition notice suspending the vehicle licence until such time as the defects were rectified. The vehicle defects were rectified on 11 October and the licence was re-instated.
6. In August 2011 Miss Jordan was issued with a warning letter for failing to comply with byelaw 11 below.
7. Byelaw number 11 of the Plymouth City Council Hackney Carriage Byelaws 2009 requires the driver of a hackney carriage to notify the Council in writing within 7 days of a conviction or motoring fixed penalty endorsement. It should be noted that the conviction was received on 9 November and the letter sent by Miss Jordan is dated as 21 November 2012, this is outside the time period required by the Byelaws for reporting the conviction. In her letter Miss Jordan apologised for the delay in notification.
8. In respect of the Hackney Carriage driver licence, 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 for any other reasonable cause.
9. In reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. The relevant parts of the Council's policy are detailed below:

## **General Policy**

The Council's Hackney Carriage and Private Hire licensing policy states that the Council will carry out its Hackney Carriage and Private Hire licensing function with a view to promoting stated objectives. Members must therefore ensure that they consider those objectives when forming a decision.

The Licensing objectives are as follows:

1. Safety and health of drivers and the public – e.g.
  - Consideration of history of convictions and cautions
  - Driver training, qualification and performance
  - Health and Fitness to fulfil the role
  - Crime prevention measures
2. Vehicle safety, comfort and access
3. To prevent crime and disorder and to protect consumers – e.g.
  - Commitment to work with the police and licensing authorities
4. To encourage environmental sustainability

## **Chapter 2 – Conditions of Licence**

Paragraph 12.3 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy 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)
- 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 where a breach of 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, and any other information thought pertinent to the matter being considered.

Paragraph 10.2- Gives the Committee the discretion to direct a driver appearing before them to complete further training or retraining, should the drivers' suitability to retain a licence be called into question.

### **Guidelines 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 it is considered that 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 when considering the suitability of a person to hold or retain a licence.

Paragraph 8 – States that any driver who receives a conviction within their license period will be referred to the Taxi Licensing Committee in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

10. Miss Jordan has been invited to attend this Taxi Licensing Committee in order that the matters contained within this report may be considered.

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**CITY OF PLYMOUTH**

Subject: Licenced Private Hire Driver – Review of Licence Status  
Committee: Taxi Licensing Committee  
Date: 18 April 2013  
Cabinet Member: Councillor Coker  
CMT Member: Anthony Payne (Director for Place)  
Author: George Curness – Licensing Officer (Taxis)  
Contact: Tel: 01752 307964  
e-mail [george.curness@plymouth.gov.uk](mailto:george.curness@plymouth.gov.uk)  
Ref: ERS/LIC/GC/pm  
Key Decision: No  
Part: I

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**Purpose of the report:**

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr Petrisor Marasescu, having due regard for the information contained within the report, any representations made by Mr Marasescu and the Taxi Licensing Policy of the Council.

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**Corporate Plan 2012 – 2015:**

This report links to the delivery of the City and Council priorities.  
In particular: Provide value for Communities.

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

Not applicable.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety,  
Risk Management:**

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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## Equality and Diversity:

Has an Equality Impact Assessment been undertaken - No

**Recommendations and Reasons for recommended action:**

Members of the Licensing Committee consider this report.

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

None.

## Background papers:

None.

**Sign off:**

Fin		Leg	16510/AZG/ 4.1.13 SD/17235/8.4. 13	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													



## Report

1. Mr. Petrisor Marasescu is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 2 September 2009. His current licence is due to expire on 13 September 2015.
2. On 19 December 2012, during a joint enforcement patrol, the vehicle, registration number YE54SNY - licence number 1314, driven by Mr Marasescu was found to be un-roadworthy.

The details of the inspection are as follows,

The rear passenger's side tyre was found to be worn to excess on the outside tread. The front driver's side tyre was worn to excess, cord was showing on the inner tread. The rear driver's side tyre was worn to the legal limit of 1.6mm.

The vehicle licence was immediately suspended, the work was completed and the suspension was lifted the same day. Photographs of the tyres are reproduced at the end of this report as appendix 1.

The Police Officer at that time reported Mr Marasescu to Court, rather than issue a fixed penalty notice. A copy of his statement is reproduced as appendix 2.

3. A memorandum of conviction was sought from Plymouth Magistrates' Court on 28 March 2013, a reply was received on 3 April 2013 which revealed the conviction following the above enforcement action.

On 14 March 2013, at Plymouth Magistrates' Court, Mr Marasescu was convicted of using a motor vehicle on a road, namely North Road East when the offside front wheel was fitted with a tyre which had the ply or cord exposed. Contrary to Regulation 27(1)(e) of the Road Vehicles (Construction and Use) Regulations 1986, S.41A Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Marasescu was sentenced to a fine of £265, and ordered to pay a victim surcharge of £20, he was also ordered to pay £60 costs.

His DVLA UK counterpart was endorsed with 3 penalty points.

4. Members are made aware that on 27 October 2012, Mr Marasescu's Private Hire driver's licence was reviewed for a similar matter. At this time Members decided to suspend Mr Marasescu's drivers licence for 3 days and warned him as to his future conduct. The decision letter is reproduced as Appendix 3.  
On that occasion, Members were told that on 31 July 2012, during an enforcement patrol the passenger side front tyre of vehicle licence number 1314, driven by and licensed to Mr Marasescu was found to be worn to excess so that cord was showing.

In addition, on 22 June 2011, licence number 1314 was found to have a space saver tyre on the rear offside of the vehicle. This is not permitted for public use and a suspension notice was issued which was lifted on 23 June 2011.

On 20 April 2011, a private hire vehicle, licence number 1372 was inspected and found to have no faults.

On 22 October 2010, a private hire vehicle, licence number 1372 was inspected and found to have no washers working, there was no “bulb kit” available and the vehicle had a dirty interior. The faults were rectified on 25 October 2010.

On 28 October 2009, a private hire vehicle, licence number 1188 was inspected and found to have no number plate lamps and 2 x body damage. The licence faults were rectified the same day.

All of the above vehicles were driven by Mr Marasescu at the time.

5. It is a condition of the Private Hire Vehicle Licence (condition 16) that all tyres and wheel (including the spare) must meet the legal requirements as to suitability for use of the vehicle. Tyres must have a minimum tread depth as required by law. They must be kept in good order and at the correct pressures. A wheel brace and car jack to enable the effective change of tyre and wheel must be carried.
6. Members are made aware that, as the owner and sole driver of this vehicle, Mr Marasescu is responsible for its road worthiness. The faults on the tyres could be plainly seen and having regard to the fact that Mr Marasescu was before the Members of the Licensing Committee, within the last six months of his last Committee hearing, raises concerns regarding Mr Marasescu’s attitude towards the safety of his passengers and to the rules that are attached to vehicles and their maintenance.
7. Members are asked to consider whether Mr Marasescu is a ‘fit and proper’ person and whether any action should be taken against his Private Hire driver’s licence in light of the lack of maintenance of the vehicles that he drives.
8. 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.
9. Members are also asked to consider whether Mr Marasescu’s vehicle is fit for use as a Private Hire vehicle and whether any action should be taken against Mr Marasescu’s vehicle licence in light of the above failed inspections. Members may require Mr Marasescu to present his vehicle for test up to four times per year or decide to impose other sanctions.
10. The actions open to Members are those contained in Section 18(1) (b) of the Plymouth City Council Act 1975 which provides for the Council to suspend, revoke or refuse to renew a vehicle licence on the grounds that the Hackney Carriage or Private Hire vehicle is unfit for use as a Hackney Carriage or Private Hire vehicle or for any other reasonable cause.
11. In reaching their decision, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy. The relevant parts of the Council’s policy are detailed below:

## General Policy

The Council's Hackney Carriage and Private Hire licensing policy states that the Council will carry out its Hackney Carriage and Private Hire licensing function with a view to promoting stated objectives. Members must therefore ensure that they consider those objectives when forming a decision.

The Licensing objectives are as follows:

1. Safety and health of drivers and the public – e.g.
  - Consideration of history of convictions and cautions
  - Driver training, qualification and performance
  - Health and Fitness to fulfil the role
  - Crime prevention measures
2. Vehicle safety, comfort and access
3. To prevent crime and disorder and to protect consumers – e.g.
  - Commitment to work with the police and licensing authorities
4. To encourage environmental sustainability

## Chapter 2. – Conditions of Licence

Paragraph 12.3 –states that when considering whether someone is 'fit and proper' the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Qualifications
- Criminal record (as to relevance of offences)
- 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 7.2 – states that licensed vehicles will be subject to periodic random inspections by authorised officers or its agents to ensure the vehicle is fit for purpose.

Paragraph 7.3 – States that where the Licensing Committee is satisfied that a vehicle fails to meet any specification or condition of licence or the relevant construction and use regulations required by law, they may suspend, revoke or refuse to renew a vehicle's license for any specified period.

Paragraph 7.4 – States that an authorised officer may suspend the licence of a licensed vehicle where it is found to have a defect which poses a danger to either passengers or other members of the public, until such time as the defect has been remedied.

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 where 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 before them to complete further training or retraining, should the drivers’ suitability to retain a licence be called into question.

12. Members are made aware that Mr Marasescu has completed the BTec in Transporting Passengers by Taxi and Private Hire.
13. Mr. Marasescu has been invited to attend this Licensing Committee in order that this matter may be considered.

**Appendix I**



**Appendix 2****Statement of: IAN MICHAEL BAGGOTT****Age if under 18 (if over insert "over 18"): Over 18****Occupation: Police Constable 3286**

This statement (consisting of .....2..... Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

**Signature:****Date: 20/12/2012**

I am a Police Constable in the Devon and Cornwall Constabulary currently stationed at Plympton Police Station as a Road Casualty Reduction Officer.

At 1025 hours on Wednesday 19<sup>th</sup> December 2012 I was on duty in uniform in an unmarked Police patrol vehicle accompanied by a Plymouth City Council taxi and private hire vehicle enforcement officer. At that time I saw a silver Vauxhall Vectra private hire vehicle registered number YE54SNY being driven on North Road East, Plymouth approaching the First Great Western railway station. The vehicle pulled up outside the main entrance and a male passenger got out. I approached the driver of the vehicle and ascertained that he had just dropped off a paying fare.

Upon examination of the vehicle I discovered that the tread on two of the tyres were below the legal limit of 1.6mm and one of those tyres also had cord exposed. I requested the driver to pull over into the British Transport Police car park where I could deal with him.

Upon further examination I discovered that the front offside was a Bridgestone 205 55 R16 radial. There was cord exposed on the inner edge of the tyre. The tread on the centre  $\frac{3}{4}$  of the tyre was also under the 1.6mm legal limit, down to 1.03mm in places.

The rear nearside tyre was a Michelin 215 55 R16 radial. The tread over the centre  $\frac{3}{4}$  of this tyre was less than the legal limit of 1.6mm, ranging between 0.9mm to 1.4mm.

The driver identified himself to me as Petrisor MARASESCU b. [REDACTED]

[REDACTED] He produced to me his driving licence number [REDACTED]

I cautioned MARASESCU and pointed out the offences with the tyres.

MARASESCU replied "NO REASON"

I said to MARASESCU "You stand reported for driving your vehicle on a road today and failing to maintain the front offside tyre and the rear nearside tyre. Do you understand"

MARASESCU replied "YES"

Photographs were taken of the tyres and the vehicle which I exhibit as IMB/1.

At the time of the offences it was raining heavily and the road surface was wet. There was also standing water on the roads.

## Appendix 3

**Mr P Marasescu**

**Environmental Services**

Public Protection Services

Plymouth City Council

Civic Centre

Plymouth PL1 2AA

T: 01752 304744

F: 01752 226314

E: [taxi.licensing@plymouth.gov.uk](mailto:taxi.licensing@plymouth.gov.uk)

[www.plymouth.gov.uk](http://www.plymouth.gov.uk)

Please ask for: Steve Forshaw

Date: 26/10/12

My Ref: sf/comm/Sus

Your Ref:

Dear Mr Marasescu,

### **Decision of the Taxi Licensing Committee**

I am writing in connection with the review of the status of your Private Hire driver licence which was considered on 25<sup>th</sup> October 2012 by members of the Taxi Licensing Committee.

### **The decision of the Committee is therefore that :-**

Your failure to maintain your vehicle correctly has led to your vehicle being found to be defective and in some instances dangerous on four occasions.

In respect of your vehicle licence and in accordance with S18 PCCA 1975, Members have decided it is a proportionate decision to suspend your vehicle licence number 1314 for 2 days.

In respect of your PHDL, Members have serious concerns regarding the apparent disregard for public safety displayed by yourself and therefore consider it proportionate to suspend your private hire drivers licence for a period of 3 days subject to s19(1) (b) Plymouth City Council Act 1975.

You have the right of appeal to the Magistrates Court against the decision of the Council by virtue of Section 19(3) of the Plymouth City Council Act 1975. Your appeal should be lodged at the Magistrates Court within 21 days and must therefore be made by **17<sup>th</sup> November 2012**.

Should you decide to appeal, you should take this letter with you to request an appeal hearing. The Magistrates Court may require a fee, which you will be required to pay before they accept any appeal against the Council's decision.

Should you not appeal within the 21 day period, then you shall be required on the 22nd day after the decision to suspend your licence, return your Private Hire drivers badge and

licence to the licensing office which will be returned to you at the end of your suspension period. If you do not wish to appeal this decision and wish to commence your suspension earlier than the date above, please contact me to discuss this. During your suspension you will not be permitted to drive any Private Hire vehicle licensed by this Council.

Should you wish to contact me to discuss this matter, I can be contacted on the number above.

Yours Faithfully

Licensing Officer (Taxi)  
Public Protection Service



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