

CITY OF PLYMOUTH

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

Executive Summary:

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

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

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

Corporate Plan 2009-2012:

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

Improving Accessibility (Transport)

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

Not applicable.

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

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

Recommendations and Reasons for recommended action:

It is recommended that the Members consider this report

Alternative options considered and reasons for recommended action

None.

Background papers:

(Insert)

Sign off:

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

Report

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

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

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

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

3. Section 18 (1) of the Plymouth City Council Act 1975 provides for the Council to suspend, revoke or refuse to renew a vehicle licence on any of the following grounds;
 - (a) that the Hackney Carriage or Private Hire vehicle is unfit, for use as a Hackney Carriage or Private Hire vehicle, or
 - (b) any other reasonable cause.
4. The actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Hackney Carriage or Private Hire vehicle, since the grant of a licence –

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

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

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

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

The Licensing Objectives are as follows.

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

Chapter 2 – Conditions of Licence (vehicles)

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

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

Chapter 4 – Enforcement Policy

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

Paragraph 8.2 requires that when considering revocation, the committee will take into account all relevant facts and circumstances including licensing objectives, nature of the breach and any other information thought to be pertinent to the matter being considered.

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