

## **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  
**Contact:** 01752 307964 e-mail [george.curness@plymouth.gov.uk](mailto:george.curness@plymouth.gov.uk)  
**Ref:** ERS/LIC/GC/ksk  
**Part:** I

---

### **Executive Summary:**

Mr. Krysztof Slavomir Kawka is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on the 20 July 2007. Mr. Kawka's present licence is due to expire on 19 July 2011.

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

Mr Kawka 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. Krysztof Slavomir Kawka is a licensed Private Hire driver, having been first granted a Private Hire driver's licence by this Council on the 20 July 2007. Mr. Kawka's present licence is due to expire on 19 July 2011.
2. Over a period of twelve months faults have been found on two vehicles owned and driven by Mr Kawka on three occasions. These occasions and faults are detailed below.

**On 20 December 2008**, during a routine vehicle inspection whilst on foot patrol in New George St at 12.30 am, Licensing Officers found Mr Kawka's vehicle, plate number was 300 and the registration number R353TYA, to have two defective front tyres, both these tyres were 50% below the legal limit of 1.6 mm. Officers issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defects had been rectified.

**On 3 July 2009**, during a joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police, on Lockyer St at 10.45, Police Officer 6336 found Mr Kawka's vehicle, registration number R353TYA, plate number 300, to have a Constant Velocity Joint boot split, which is an integral part of the vehicle's drive/suspension. The Police Officer issued a vehicle defect notice, which allowed Mr Kawka 7 days to repair the fault. The repair was carried out on 9 July 2009.

**On 18 December 2009**, during a further joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police in Madeira Road at 14.45, Licensing Officers found Mr Kawka's vehicle, plate number 300 and registration number NU53UGB, to have two front tyres worn to the legal limit. The Licensing Officer issued a vehicle defect notice, which allowed Mr Kawka 24 hours to repair the fault. The repair was carried out on 19 December 2009.

Mr Kawka's vehicle had been inspected by Licensing Officers on two previous occasions. Documented evidence shows the first on **18 August 2007** in Armada Way at 19.17, where vehicle with plate number 300, registration number R353TYA, was found to have two defective tyres, both below the legal tread limit. The second on **22 December 2007** at 13.30, at St Andrews Cross, where vehicle with plate number 300, registration number R353TYA, was found to have one defective tyre, worn to below 50% of the legal tread limit.

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. Kawka 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.

6. In deciding whether Mr Kawka 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:

- 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 to 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 no longer a fit and proper person.

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

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