

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Diver Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 15 April 2010
Cabinet Member: Councillor Brookshaw
CMT Member: Director for Community Services
Author: Mark Small - Senior Taxi Licensing Officer
Contact: 01752 307984 e-mail: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MS/jct
Part: I

Executive Summary:

Mr John Charles Tregea is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 1998, his current licence is due to expire on 10th July 2010.

On the 4th March 2010 Mr Tregea was prosecuted by Plymouth City Council for smoking offences against the Health Act 2006. Officers are therefore seeking a review of the status of the driver licence held by Mr Tregea as they are dissatisfied with his conduct generally due to his repeated offences and standard of conduct.

Mr Tregea 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, 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 John Charles Tregea is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 1998, his current licence is due to expire on 10th July 2010.
2. On the 4th March 2010 Mr Tregea was prosecuted by Plymouth City Council for smoking offences against the Health Act 2006.

Details of this motoring conviction are given below.

On 04 March 2010 at Plymouth Magistrates' Court.

Mr Tregea was convicted of an offence of Smoking in a Smokefree place (a licensed Hackney Carriage) contrary to S.7(2) of the Health Act 2006. There was also one other offence of the same nature taken into consideration. He was fined £65 and ordered to pay costs of £100 and a victim surcharge of £15.

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

On the 06th December 2007 Mr Tregea was observed by a Licensing Officer smoking within licensed Hackney carriage number 780 and a warning letter was sent warning him of the actions open to the Council for future non-compliance with the Smokefree legislation, see Appendix A.

On the 10th May 2008 Mr Tregea was observed by a Licensing Officer to be smoking in licensed Hackney Carriage 780. On this occasion he was offered the option of a fixed penalty notice to discharge the offence which he accepted and paid within the permitted time. See Appendix B

On the 06th March 2009 Mr Tregea was again observed by a Licensing Officer to be smoking within licensed Hackney Carriage 780. This offence was dealt with by issuing fixed penalty notice which was accepted and paid within the permitted time period. See Appendix C

On the 20th September 2009 Mr Tregea was observed to be smoking in licensed Hackney Carriage 741 by two officers of the Public Protection Service who reported their observations to the Licensing Section. Statements were obtained from the Officers making the observation and Mr Tregea was prosecuted for this offence on the 4th March 2010.

A Licensing officer again witnessed Mr Tregea smoking within a licensed Hackney Carriage on 20th February 2010. It is this offence that was taken into consideration on 4th March 2010 when Mr Tregea was prosecuted.

4. On the 23rd March 2009, officers sent Mr Tregea a warning letter concerning his conduct after receiving a complaint from a member of the public over his complete disregard for the care of his customers. That letter, which is provided as appendix D to this report, warned Mr Tregea that any further complaints or breaches of the laws relating to the use of licensed vehicles, would lead to a review of the status of his driver licence.

5. Mr Tregia has appeared before Members where Officers have sought a review of his driver licence status. On the 23rd January 2006 his licences status was reviewed and his Hackney Carriage driver licence was suspended for a period of 7 days. The report considered by Members on that occasion is provided as appendix E to this report as background information.
6. Officers are now seeking a review of the status of the licence held by Mr Tregia due to his repeated offending and general disregard or contempt for the rules and regulations relating to the licensing regime. It is considered that his actions have had and could continue to have the potential to be detrimental to his passenger's health, wellbeing and comfort. Officers consider that the repeated offending and lack of customer care demonstrated by Mr Tregia is not conducive to the aims and objectives of the licensing regime, and his actions can only portray the trade in a negative light
7. 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”***.
8. In deciding whether Mr Tregia 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:

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, nature of the breach and any other information thought to be 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 drivers' suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 – states that 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 contraventions of Licensing Laws or conditions are relevant offences for considering the suitability of a person to retain a licence.

9. Members are asked to consider whether Mr Tregua is a "fit and proper" person in light of the matters contained within this report
10. Mr. Tregua has been invited to attend this Licensing Committee in order that this review of his driver licence status can be considered.

Appendix A



PUBLIC PROTECTION SERVICE
Department of Development

Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

Tel: 01752 307984
Fax: 01752 307810
Email: environmental.regulation@plymouth.gov.uk
www.plymouth.gov.uk

When calling or telephoning please ask for: **Mark Small**

My Ref: RH/LD

Date: 11 December 2007

Dear Mr Tregear

The Health Act 2006 Part 1
The Smokefree (Exemptions and Vehicles) Regulations 2007
The Smokefree (Signs) Regulations 2007

On 06 December 2007 at 1642 hours, I observed you smoking in hackney carriage 527 whilst on Mannamead Road heading towards Mutley Plain. You were then seen to discard the cigarette remains out of the driver's window.

Regulation 11 of the Smokefree (Exemptions and Vehicles) Regulations 2007 provides that an enclosed vehicle shall be smokefree if it is used:

- by members of the public
- in the course of paid or voluntary work by more than one person, even if the persons who work there do so at different times or only intermittently.

Smokefree vehicles are required to be smokefree at all times.

I enclose some guidance notes to assist you, however please contact me if you require any further advice.

I must advise that if we continue to receive complaints or witness smoking in any smokefree vehicle, then we may instigate formal action.

Thank you for your anticipated co-operation.

Yours faithfully

Mark Small M.I.L. CertHE(Licensing Law)(B'ham)
Senior Licensing Officer
Public Protection Service

Appendix B



Fixed penalty notice no. 00406

Schedule 1 and 2 Regulations 3(1) and 3(2) Plymouth City Council, Civic Centre, Plymouth PL1 2AA.

FIXED PENALTY NOTICE: THE HEALTH ACT 2006 Section 6 (Failure to display no smoking signs in accordance with requirements made by or under section 6) Section 7 (Offence of Smoking in a Smoke Free Place)

PART 1

Full name of alleged offender: JOHN CHARLES TROGA

Address of

Postcode:

I, GORGE CORWISS (name of authorised officer of Plymouth City Council (PCC) under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 6 or 7 of the Health Act 2006 (detailed below) to which PCC has enforcement responsibilities.

- Failure to display no smoking signs in premises, a place or vehicle in accordance with requirements made by or under section 6 of the Health Act 2006 (PENALTY AMOUNT £200, reduced to £150 if paid in 15 days, maximum penalty on conviction £1,000)
Smoking in a smoke free place in accordance with requirements made by or under section 7 of the Health Act 2006 (PENALTY AMOUNT £50, reduced to £30 if paid in 15 days, maximum penalty on conviction £200)

The circumstances alleged to constitute the offence are that at 16:26 (time) on 10/5/08

Date you at/on on the following premises, place or vehicle (where alleged offence took place, including address if any): DATE 780 3392 AIN

being premises, a place or vehicle to which the provisions of sections 6 and 7 of the Health Act 2006, allegedly (details of offence):

The notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty. No proceedings will be taken for this offence before the expiration of the period of 29 days beginning with the date of issue (see below). You will not be liable to conviction for the offence if you pay the fixed penalty within the period of 29 days. You can pay a discounted amount if you pay within the period of 15 days beginning with the date of issue.

Details about how to pay this fixed penalty notice are at Part 2 of this notice. Information for the immediate attention of the person who has been issued this penalty notice is at part 3 of this notice (see reverse). Details about how to request a court hearing in relation to this alleged offence are at part 4 of this notice (see reverse). If you have any questions, or if you wish to discuss this notice, please contact Public Protection Service on 01752 304141.

Signature of authorised officer: [Signature] Date: 10/5/08

PART 2 Paying the penalty

If you choose to pay the penalty within 29 days, no further action will be taken in respect of the alleged offence described in part 1 of this penalty notice, The payment involves no admission of guilt and will not result in a criminal conviction being made against you.

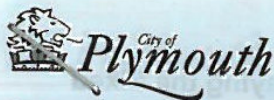
Payment in person - at Civic Centre, Plymouth PL1 2AA. Payment by post - cheque, money order or postal order made payable to Plymouth City Council and send to: Plymouth City Council, Civic Centre, Plymouth PL1 2AA. Do not send cash by post.

Please produce/send your white copy with your payment and quote your name and ticket number on all correspondence, the yellow copy should be retained for your records. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped self-addressed envelope.

WARNING - Non payment within 29 days is likely to result in prosecution; the maximum fine payable on conviction for each offence is detailed above.

Ledger code: 4972 8349

Appendix C



Fixed penalty notice no.

00413

Schedule 1 and 2 Regulations 3(1) and 3(2)
Plymouth City Council, Civic Centre, Plymouth PL1 2AA.

FIXED PENALTY NOTICE: THE HEALTH ACT 2006

Section 6 (Failure to display no smoking signs in accordance with requirements made by or under section 6)

Section 7 (Offence of Smoking in a Smoke Free Place)

PART 1

Full name of alleged offender: MR JOHN CHARLES TREGGA

Address

Postcode

I, GEORGE CURNESS

(name), an authorised officer of Plymouth City Council (PCC) under section 10 of the Health Act 2006, have reason to believe that you committed an offence under section 6 or 7 of the Health Act 2006 (detailed below) to which PCC has enforcement responsibilities.

- Failure to display no smoking signs in premises, a place or vehicle in accordance with requirements made by or under section 6 of the Health Act 2006 (PENALTY AMOUNT £200, reduced to £150 if paid in 15 days, maximum penalty on conviction £1,000)
- Smoking in a smoke free place in accordance with requirements made by or under section 7 of the Health Act 2006 (PENALTY AMOUNT £50, reduced to £30 if paid in 15 days, maximum penalty on conviction £200)

The circumstances alleged to constitute the offence are that at: 16:30 (time) on 6/3/09

Date you acted on the following premises, place or vehicle (where alleged offence took place, including address if any):
BLACK METRO CAB S392 ATN PLATE 780 (NORTH HILL)

being premises, a place or vehicle to which the provisions of sections 6 and 7 of the Health Act 2006, allegedly (details of offence): SMOKING IN ABOVE VEHICLE

The notice offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty. No proceedings will be taken for this offence before the expiration of the period of **29 days** beginning with the date of issue (see below). You will not be liable to conviction for the offence if you pay the fixed penalty within the period of 29 days. **You can pay a discounted amount if you pay within the period of 15 days beginning with the date of issue.**

Details about how to pay this fixed penalty notice are at Part 2 of this notice. Information for the immediate attention of the person who has been issued this penalty notice is at part 3 of this notice (see reverse). Details about how to request court hearing in relation to this alleged offence are at part 4 of this notice (see reverse). If you have any questions, or if you wish to discuss this notice, please contact Public Protection Service on 01752 304141.

Signature of authorised officer: [Signature] Date: 10/3/09

PART 2 Paying the penalty

If you choose to pay the penalty within 29 days, no further action will be taken in respect of the alleged offence described in part 1 of this penalty notice. The payment involves no admission of guilt and will not result in a criminal conviction being made against you.

Payment in person - at Civic Centre, Plymouth PL1 2AA. **Payment by post** - cheque, money order or postal order made payable to Plymouth City Council and send to: *Plymouth City Council, Civic Centre, Plymouth PL1 2AA.*
Do not send cash by post.

Please produce/send your white copy with your payment and quote your name and ticket number on all correspondence, the yellow copy should be retained for your records. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped self-addressed envelope.

WARNING - Non payment within 29 days is likely to result in prosecution; the maximum fine payable on conviction for each offence is detailed above.

Ledger code: 4972 8349



Public Protection Service

Department of Development
Taxi 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

When calling or telephoning please ask for: **Mark Small**

My Ref: **MS/LD**

Date: **23 March 2009**

Dear Mr Tregea

You may recall that I wrote to you recently regarding a complaint I have received from a member of the public. That letter contained an incorrect date for the incident which actually took place on 27 February 2009 at approximately 1545hrs, in Hackney Carriage 780. I apologise for the error in my previous letter, which should be disregarded. This letter now contains the correct incident date, and I reiterate the content of the original below.

The complainant hired your vehicle from Old Town Street, going to a destination in Brentford Avenue. She was accompanied by her young children, one of which was unwell with a bronchial condition and in a pushchair. She states that you failed to assist her either into or out of the vehicle, but more importantly, that you refused to put the heating on in the vehicle or close your drivers window, even when she informed you that her child was ill and they were feeling cold. And she also describes your attitude, at best, as being extremely obstructive with a very bad attitude.

The complaint appears to demonstrate your complete disregard for customer care, which not only reflects badly on you as an individual, but could also reflect poorly on the trade as a whole, and reflects an attitude on your part, which has no place in a customer service environment.

I note from your file that previous complaint have been received concerning your lack of customer care and awareness, and also breaches of the law which have been dealt with on previous occasions.

I do not intend to pursue this particular complaint any further, but I am issuing this letter as a final warning regarding your future behaviour. If a further complaint is received about you, or there are any further breaches of Hackney Carriage laws or regulations, then it will be my intention to seek a review of the status your Hackney Carriage driving licence, which could result in that licence being revoked.

I would therefore recommend that you adjust your attitude towards customers, who are after-all providing you with a living, and abide by the laws relating to your chosen trade to prevent further complaints which could lead to a review of your licence status.

Yours faithfully

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

Appendix E

CITY OF PLYMOUTH

Subject: Licensed Driver – Refusal to take Wheelchair Passenger Without Reasonable Excuse

Committee Licensing Committee (Hackney Carriage)

Date: 23rd January 2007

Cabinet Member: Cllr Dafydd Williams - Transport & Environmental Quality

CMT Member: N. Pitt – Corporate Director for Development

Author: George Curness – Assistant Licensing Officer

Contact: (30)7964 e-mail george.curness@plymouth.gov.uk

Ref: ERS/LIC/GC/jt

Part: I

Executive Summary:

Mr. John TREGEA is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 21st April 1998, his current licence is due to expire on 10th July 2009. On the 27th November 2006, a complaint was received from a member of the public that alleged that Mr TREGEA and others had refused to take a wheelchair bound passenger to their destination.

Details of the complaint and of other incidents of this nature regarding Mr TREGEA are in this report.

Mr TREGEA has been invited to attend this Committee hearing.

Corporate Plan 2004-2007:

This report links to the delivery of the corporate priorities defined in Strategic Choices. In particular:

1. Improving the health, social well being and safety of local people
 2. Contributes to the delivery of Customer focused services
-

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

Not applicable.

Other Implications: eg. Section 17 - Community Safety, Health and Safety and Risk Management 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 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. John TREGEA is a licensed Hackney Carriage driver, having been first granted a licence by the Council prior to 21st April 1998, his current licence is due to expire on 10th July 2009. On the 27th November 2006, a complaint was received from a member of the public that alleged that Mr TREGEA had refused to take a wheelchair bound passenger to their destination.
2. On 26th November 2006, at the Hackney Carriage stand in Old Town Street, a woman approached the first Taxi with her Mother who was in a wheelchair. The first Taxi driver attempted to take the wheelchair and four other passengers in the group, which included a toddler in a pushchair, but had to refuse the fare as his Taxi was not licensed to take this amount of passengers.
Mr TREGEA was second in the rank and allegedly told the complainant that he did not take wheelchairs, thereby refusing to take a fare from the rank without good reason. This was witnessed by the driver in a Taxi, fourth in the line, and was confirmed in a letter sent by that driver, to the Licensing Office, on 29th November 2006.
3. The Taxi driven by Mr TREGEA is Hackney Carriage plate number 535, is licensed to carry 5 passengers, and is wheelchair accessible, it is owned by Mr David REED and its current licence is due to expire 12th February 2007. Mr REED confirmed in a letter received on 13th December 2006, that he is the owner of the vehicle and Mr TREGEA is the driver.
4. A letter was sent to all the drivers involved in this incident, asking for an explanation of their actions concerning this incident, replies were received from all drivers except Mr TREGEA, who had not replied to the letter on 3rd January 2007. The letter had requested a reply, in writing, within 7 days of receiving the letter, which was sent on 18th December 2006.
5. Previous to this incident on 28th June 2006, another wheelchair bound passenger was refused to be driven by Mr TREGEA, again the incident was on the Hackney Carriage stand at Old Town Street, the same vehicle was involved, and the complainant stated in a letter that they were waved away by the driver.
6. A letter from the Licensing Office was sent on 29th June 2006 to Mr TREGEA outlining 4 facts pertaining to this matter,
 - a) that the vehicle was wheelchair accessible
 - b) that the vehicle was on a Hackney Carriage stand available for hiring
 - c) that the driver was Mr TREGEA and he had refused to carry a wheelchair user, who wished to hire the Taxi and
 - d) Mr TREGEA does not hold a medical exemption from carrying wheelchairs.The letter stated that this was a written formal warning and that further instances of this type could result in prosecution. The letter went on to explain that wheelchair users rely to a great degree on Taxis to transport them and refusal often causes great upset to them.
7. As far back as 9th November 1996, a complaint was lodged against Mr TREGEA for a similar matter. He was interviewed on 17th December 1996 with regard to this matter, and said in his statement that he did not remember the incident, and made no comment to the questions put to him by Mr BALSDON, the Assistant Licensing Officer at that time, who noted on the statement that Mr TREGEA had refused to sign the statement.
8. At the time of these incidents Mr TREGEA was licensed as a Hackney Carriage driver

and as such was governed by the Town Police Clauses Act 1847.

Section 53 of the Town Police Clauses Act 1847 states that any driver who refuses without reasonable excuse to drive the carriage to any place within the prescribed distance shall commit an offence.

9. Mr TREGEA has refused on at least three occasions to carry passengers to their destination as prescribed in Sec 53 TPCA 1847.
10. Section 19(1)(b) of the Plymouth City Council Act 1975 provides for the Council to suspend, revoke or refuse to renew the licence of a driver of a private hire vehicle or a Hackney Carriage, following the grant of a licence –

for:- ***“any other reasonable cause”***.
11. Members are asked to consider what action, if any, should be taken against the licence held by Mr. TREGEA, in light of the above details.
12. Mr. TREGEA has been invited to attend this Licensing Committee in order that this matter may be considered.