

# CITY OF PLYMOUTH

**Subject:** Licensed Driver – Review of Driver Licence Status  
**Committee** Licensing Committee (Hackney Carriage)  
**Date:** 10 June 2010  
**Cabinet Member:** Councillor Brookshaw  
**CMT Member:** Director of Community Services  
**Author:** Mark Small - Assistant Taxi Licensing Officer  
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**Ref:** ERS/LIC/MS/mk  
**Part:** I

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## **Executive Summary:**

Mr Michal Kostka is a Hackney Carriage driver having been first licensed by this Council on the 15 July 2008 as a Private Hire driver with a renewal of licence taking place on the 13 July 2009. On the 19 March 2010 Mr Kostka relinquished his Private Hire driver licence and retained his Hackney Carriage driver licence which is due to expire on 07 January 2011.

On the 19<sup>th</sup> March 2010, a letter was received from Mr Kostka informing the Licensing section that he had appeared at Plymouth Magistrates Court on the 12<sup>th</sup> March 2010 and had been disqualified from driving for a period of 6 months.

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

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## **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)

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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: eg. Section 17 of the Crime Disorder Act 1998 - Community Safety, Health and Safety and 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:**

(Insert)

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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 Michal Kostka is a licensed Hackney Carriage driver having been first granted a licence to drive Private Hire vehicles by this Council on the 15<sup>th</sup> July 2008. The present licence held by Mr Kostka is due to expire on the 7<sup>th</sup> January 2011.
2. On the 19<sup>th</sup> March 2010, a letter was received from Mr Kostka informing the Licensing Section that he had appeared at Plymouth Magistrates Court on the 12<sup>th</sup> March 2010 and had been disqualified from driving for a period of 6 months. Officers subsequently requested a memorandum of conviction from Plymouth Magistrates Court which was supplied on the 25<sup>th</sup> March 2010 and provided the below information.

Details of his motoring disqualification are given below.

### **On 12 March 2010 at Plymouth Magistrates' Court.**

2 x Counts of using a small passenger vehicle with tyre with insufficient tread – less than 1.6mm on 17.12.09, contrary to regulation 27(4) of the Road Vehicles (Construction and Use) Regulations 1986 and Section 41A of the Road Traffic Act 1988, and Schedule 2 to the Road Traffic Offenders Act 1988.

On the first count he was fined £70 and ordered to pay costs of £60 and a victim surcharge of £15. He also had his DVLA licence endorsed with 3 penalty points and disqualified from driving for a period of 6 months (driving disqualification was obligatory due to repeat offending). Mr Kostka's guilty plea was taken into account during sentencing. On the second count he was also fined £70

The background to this conviction is provided here for the information of members.

On the 17<sup>th</sup> December 2009, taxi enforcement officers were on a joint agency enforcement exercise with Police Traffic officers from the Devon and Cornwall Constabulary, when the licensed Private Hire vehicle number 1211, at that time owned and driven by Mr Kostka, was seen on Derry's Cross, Plymouth. Due to the defective tyres a Council prohibition notice was issued by the Taxi Licensing Officer and the Police Officer reported Mr Kostka for those offences which resulted in the court appearance.

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

On the 9<sup>th</sup> February 2009 convicted of Motor Vehicle Fail to Comply with red/green arrow/lane closure Flashing Light Signal, namely a red traffic signal on Plymouth Road on 10<sup>th</sup> August 2008, contrary to section 36(1) of the Road Traffic Act 1988, Regulation 10 of the Traffic Signs Regulations and General Directions 2002 and schedule 2 to the Road Traffic Offenders Act 1988.

Fined £60 and ordered to pay £15 victim surcharge, driving licence endorsed with 3 penalty points.

On the 9<sup>th</sup> February 2009 convicted of Exceeding the Speed Limit on a Public Road, namely Western Approach (south) on 8<sup>th</sup> August 2008, contrary to section 81(1) and 89(1) of the Road Traffic Regulations Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Fined £60 and licence endorsed with 3 penalty points.

On the 30<sup>th</sup> October 2009 convicted of Exceeding the Speed Limit on a Public Road, namely Manamead Road on 6<sup>th</sup> April 2009, contrary to section 81(1) and 89(1) of the

Road Traffic Regulations Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Fined £150 and ordered to pay costs of £85 and a victim surcharge of £15, driving licence endorsed with 3 penalty points.

It should be noted that the vehicles being used in each of the above offences was at the time of the offence a licensed Private Hire vehicle.

4. Members are no doubt aware that Mr Kostka appeared before them on the 11<sup>th</sup> March 2010 on a matter completely unconnected with that being presented to Members today for consideration.
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 Kostka 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 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, 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 a criminal record does not automatically prevent an applicant from obtaining a licence unless the Council considers 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 for considering the suitability of a person to retain a licence.

7. Members are asked to consider whether Mr Kostka is a "fit and proper" person in light of the matters contained within this report, which all relate to his use of a Private Hire vehicle licensed by this Council.
8. Mr. Kostka has been invited to attend this Licensing Committee in order that this review of his driver licence status can be considered.