

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Driver Licence Status

Committee: Licensing Committee (Hackney Carriage)

Date: 8 July 2010

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

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Part: I

Executive Summary:

Mr. Marek Kohajda is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 29 March 2006. This is due to expire on 5 April 2013.

On 6 April 2010, Mr Kohajda completed a DVLA check, during the renewal process of his Private Hire driver's licence, as he had no UK counterpart for his driving licence. This check revealed a motoring conviction, not reported to the Licensing Office by Mr Kohajda.

Mr Kohajda 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 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.

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:

None

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. Marek Kohajda is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 29 March 2006. This is due to expire on 5 April 2013.
2. On 6 April 2010, attended the Licensing desk to renew his Private Hire driver's licence, prior to this, Mr Kohajda completed a DVLA check, as he had no UK counterpart for his driving licence. This DVLA check revealed a Motoring conviction, not reported to the Licensing Office by Mr Kohajda.

Details of this motoring conviction are given below.

On 7 January 2008 at Plymouth Magistrates' Court.

Mr Kohajda was convicted of exceeding the statutory speed limit on a public road.

Mr Kohajda was fined £160 and his DVLA licence was endorsed with 5 penalty points. A victim surcharge was imposed of £15.

Further information is revealed on the DVLA read-out.

On 19 May 2007 Mr Kohajda was given a fixed penalty fine and his licence was endorsed with 3 penalty points for using a mobile phone whilst driving a motor vehicle.

Previously Mr Kohajda had a fixed penalty fine and 3 penalty points endorsed on his driving licence on 1 November 2006 for exceeding the statutory speed limit on a public road.

This means that Mr Kohajda has 11 penalty points currently on his driving licence.

3. 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”***.

4. In deciding whether Mr Kohajda 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 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.**
 - 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.**
 - 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, 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, 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 retraining, should the drivers' suitability to retain a licence be called into question.

Guidance on the Relevance of Convictions

Paragraph 1 - states that the disclosure of a criminal record will 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 a motoring offence is a relevant offence for considering the suitability of a person to retain a licence.

Paragraph 8 – states that any driver who receives a relevant conviction within their licence period will be referred to the Licensing Committee (Hackney Carriage) in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

5. Two of the motoring offences mentioned in this report were committed during the first year of Mr. Kohajda holding a Private Hire driver's licence, although sentencing in Court took place after the probationary year.

6. Members are made aware that at the time of these convictions Mr. Kohajda was licensed as a Private Hire driver and, as such was governed by the conditions of licence for such drivers, which are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(c) of the licence requires

The licence holder to notify the Council's Licensing Section, IN WRITING, of any conviction in a Court of Law in respect of any Motoring and/or Criminal offences following the grant of a licence, within 7 days of such an conviction.

7. Members are asked to consider whether Mr Kohajda is a "fit and proper" person in light of the above conviction and guidance.
8. Mr. Kohajda has been invited to attend this Licensing Committee in order that this matter may be considered.