

## **CITY OF PLYMOUTH**

**Subject:** Licensed 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  
**Author:** Mark Small - Assistant Taxi Licensing Officer  
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**Ref:** ERS/LIC/MS/ib  
**Part:** I

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### **Executive Summary:**

Mr Ionut Banciu is a Private Hire driver having been first licensed by this Council on the 24<sup>th</sup> June 2008, that licence has been subject to periodic renewal and transfer with the present licence being issued on the 16<sup>th</sup> March 2010 and due to expire on the 15<sup>th</sup> March 2011.

On the 16<sup>th</sup> March 2010 it was noted during his renewal of licence that Mr Banciu had received two endorsements on his DVLA driver licence.

Mr Banciu 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.

That Members of the Licensing Committee consider this report.

None.

## None

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 Ionut Banciu is a Private Hire driver having been first licensed by this Council on the 24<sup>th</sup> June 2008, that licence has been subject to periodic renewal and transfer with the present licence being issued on the 16<sup>th</sup> March 2010 and due to expire on the 15<sup>th</sup> March 2011.
2. On the 16<sup>th</sup> March 2010 it was noted during his renewal of licence that Mr Banciu had received two endorsements on his DVLA driver licence. Subsequently a memorandum of conviction was applied for from Plymouth Magistrates Court which disclosed the following information in relation to those offences.

### **On 22<sup>nd</sup> June 2009 at Plymouth Magistrates' Court.**

Convicted of Using Mobile Phone / Device While Driving a Motor Vehicle on a Road, namely Union Street on 21<sup>st</sup> May 2009, contrary to Regulation 110(1) of the Road Vehicles (Construction and Use) Regulations 1986, section 41D of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

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

### **On 31<sup>st</sup> July 2009 at Plymouth Magistrates' Court.**

Fail to Give Information re Drivers Identity as Required on 12<sup>th</sup> September 2009, contrary to the relevant local order, sections 84 and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 to the Road Traffic Act 1988. Contrary to section 172(3) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Fined 100 and ordered to pay costs of £60, victim surcharge of £15 with this driving licence endorsed with 6 penalty points.

At the time of writing this report Mr Banciu has 9 live penalty points endorsed on his DVLA driving licence. Members are also made aware that the vehicles involved were licensed Private Hire vehicles at the time the above offences were committed.

3. A standard condition of Licence exists which requires all Private Hire drivers to notify the Council of any convictions received during their licence period. The conditions of licence are made by virtue of Section 9(2) of the Plymouth City Council Act 1975.

Condition 1(c) of the licence requires:-

*The licensed driver to notify the Council's Licensing Unit **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.*

Mr Bancui has breached this condition of licence, as there is no trace of him having complied with this condition of licence.

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.

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

5. In deciding whether Mr Banciu 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 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** - 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.

**Paragraph 18.5** requires the Committee to have regard to the following when considering previous convictions:

- Whether they are spent or unspent.
- The nature of the offence
- The age of the offence
- The apparent seriousness as gauged by the penalty
- The relevance of the convictions in relation to the promotion of the Licensing Objectives

### **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 the disclosure of a criminal record will not automatically prevent any 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.

**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.

6. Members are made aware that Mr Banciu has satisfactorily completed the Level 2 Btec in Transporting Passengers by Taxi and Private Hire , a pass being achieved in this qualification in November 2009.
7. Members are asked to consider whether Mr Banciu is a "fit and proper" person in light of the matters contained within this report, which all relate to his use of Private Hire vehicles licensed by this Council.
8. Mr Banciu has been invited to attend this Licensing Committee in order that this review of his driver licence status can be considered.