

CITY OF PLYMOUTH

Subject: Licensed Driver – Review of Driver Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 5 August 2010
Cabinet Member: Councillor Peter Brookshaw
CMT Member: Director for Community Services
Author: Mark Small - Assistant Taxi Licensing Officer
Contact: 01752 307984 e-mail: mark.small@plymouth.gov.uk
Ref: ERS/LIC/MS/jah
Part: I

Executive Summary:

Mr Jaroslaw Andrzej Hajduk is a Private Hire driver having been first licensed by this Council on the 13th April 2007, that licence has been subject to periodic renewal with the present licence being issued on the 13th April 2010 which expires on the 12th April 2013.

On the 24th March 2010 Mr Hajduk attended an appointment at the Civic Centre Licensing counter and it was noted that he had received multiple endorsements on his DVLA driver licence, and accumulated 19 penalty points in total on that driving licence.

Mr Hajduk has been invited to attend this Licensing Committee in order that this matter may be considered, which was adjourned from the meeting in June to enable an interpreter to be obtained for Mr Hajduk.

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 Jaroslaw Andrzej Hajduk is a Private Hire driver having been first licensed by this Council on the 13th April 2007, that licence has been subject to periodic renewal with the present licence being issued on the 13th April 2010 which expires on the 12th April 2013.
2. On the 24th March 2010 Mr Hajduk attended the Licensing Counter of the Civic Centre to renew his Private Hire driver licence which was due to expire on the 12th April 2010. During this transaction, the Licensing Clerk noted that Mr Hajduk had multiple endorsements on his DVLA counterpart and had accumulated a total of 19 penalty points on that licence. Advice was sought from a Taxi Licensing Enforcement Officer who then spoke with Mr Hajduk explaining that the renewal transaction would not take place until enquiries had been made with the DVLA regarding his licence status.
3. On the 25th March 2010 enquiries were made with the DVLA regarding the status of the driving licence status of Mr Hajduk, and DVLA confirmed the information contained on the DVLA counterpart was correct, which is provided below.

On 26th November 2007 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 5th May 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 3 penalty points.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 20th May 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 3 penalty points.

On 3rd December 2007 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 11th November 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £80 and driving licence endorsed with 3 penalty points.

On 21st December 2007 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 4th June 2007, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 3 penalty points.

On 5th January 2009 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 18th November 2008, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £100 and driving licence endorsed with 3 penalty points.

On 16th November 2009 at Plymouth Magistrates' Court.

Convicted of Exceeding the Statutory Speed Limit on a Public Road on 24th July 2009, contrary to Section 81(1) and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 of the Road Traffic Offenders Act 1988.
Fined £60 and driving licence endorsed with 4 penalty points.

At the time of writing this report Mr Hajduk has a total of 19 live penalty points endorsed on his DVLA driving licence.

Mr Hajduk was informed that his renewal of licence could proceed but that his licence status would be reviewed at a future Committee meeting.

4. Members are further advised that Mr Hajduk renewed his licence in April 2008 and March 2009. on both occasions he completed the application and stated that he had not received any criminal convictions. This was incorrect.
5. 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 Hajduk has breached this condition of licence, as there is no trace of him having complied with this condition in respect of any of these convictions.

6. 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”.

7. In deciding whether Mr Hajduk 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 - 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, 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 the disclosure of a criminal record will not automatically prevent any applicant from obtaining a licence unless the Council considers 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 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. By means of background information, Members are made aware that Mr Hajduk has been sent two warning letters from the Licensing Section which are produced with this report as appendix A and appendix B.
7. Members are asked to consider whether Mr Hajduk is a “fit and proper” person in light of the matters contained within this report, and in particular his antecedence of driving convictions all of which relate to speeding and have all been accrued during his period of holding a Private Hire driver licence. It must be stated however, that the last known speeding offence was committed on the 24th July 2009.
8. Mr Hajduk has been invited to attend this Licensing Committee in order that this review may be considered, which was adjourned from the meeting in June to enable an interpreter to be obtained for him.

Appendix A



Mr J A Hajduk

ENVIRONMENTAL REGULATION SERVICE
Department of Development

Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

Tel: 01752 307964
Fax: 01752 226314
Email: environmental.regulation@plymouth.gov.uk
www.plymouth.gov.uk

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

My Ref: MS/LD/rank park

Date: 22 June 2007

Dear Mr Hajduk

Re: Ford Mondeo

Registered Number:

I write with reference to the above vehicle which is a licensed private hire vehicle number 1192 for which you are the licensed driver.

At approximately 1931 hours on 20 May 2007, it was noted that your vehicle was waiting on an authorised stand for Hackney Carriages in Raleigh Street, Plymouth.

I have to inform you that by virtue of Section 22(1) of the Plymouth City Council Act 1975 "***no person shall cause or permit any vehicle other than a Hackney Carriage to wait on any stand for Hackney carriages during any period for which that stand has been appointed***" and further Section 22(3) of the Act states, "***if any person without reasonable excuse contravenes the provisions of this Section, he shall be guilty of an offence***".

After consideration I have decided that, in this instance, no further action will be taken, but to warn you that should your vehicle again be observed contravening the above quoted legislation that prosecution may be likely to follow.

I trust that you understand the situation and that proceedings in the future will not be necessary.

Yours faithfully

Mark Small MIL CertHE (Licensing Law)(B'ham)
Senior Licensing Officer
Public Protection Service
Environmental Regulations

Appendix B



ENVIRONMENTAL SERVICES

Department of Community Services
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

Mr J A Hajduk

When calling or telephoning please ask for: Mark Small

My Ref: ERS/MS/enforce

Date: 14 December 2009

Dear Mr Hajduk

Subject: Disorderly Behaviour - Letter of Warning

Vehicle Licence Number: 1194

I have received a report that at 1.35pm on 07 December 2009, the driver of the above licensed Private Hire Vehicle was observed urinating against the rear wall of the pump house block situated in Car Park B on Bretonside. As you are the licence holder for that vehicle, it is a reasonable assumption to say that you were the driver at that time.

It is completely unacceptable for any driver licensed by the Council to be urinating in a public place, not only is this type of behaviour offensive, it is against the law.

You are strongly advised in future to utilise those public conveniences provided, or return to your operator or home to relieve yourself. Any future occurrences of this nature will result in the Council seeking a review of the status of your Private Hire driver licence, which could ultimately result in the licence being revoked.

This letter will remain on your file, and may be referred to in any future disciplinary proceedings.

I hope that this letter will serve as a reminder of those standards expected from a licensed driver, and that in future you will conduct yourself appropriately.

Yours sincerely

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