

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Licence Status
Committee Licensing Committee (Hackney Carriage)
Date: 3 February 2011
Cabinet Member: Councillor Brookshaw
CMT Member: Director for Community Services
Author: James Hirst – Taxi Licensing Officer
Contact: Tel: 01752 304744 e-mail james.hirst@plymouth.gov.uk
Ref: ERS/LIC/JH/shk
Key Decision: No
Part: I

Executive Summary:

Mr. Samuel Henry Kendall is a Licensed Private Hire Driver, having first been granted a Private Hire driver's licence by the Council on the 11th March 2009. Mr. Kendall's present licence is due to expire on the 10th March 2011.

On the 09th November 2010, a road side inspection was carried out on the Private Hire vehicle driven by Mr. Kendall. Due to the safety faults identified, an immediate Prohibition Notice was served, removing the vehicle from undertaking any further licensed work until such time as the faults were rectified. This report highlights that Mr. Kendall has consistently failed to maintain his licensed vehicle to minimum safety standards that, as a result, compromises the safety of his passengers and other road users.

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

Corporate Plan 2010 – 2013 as amended by the four new priorities for the City and Council:

This report links to the delivery of the corporate priorities defined in the Corporate Improvement Plan. In particular:

Improving access across the City

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

Not applicable.

Other Implications: e.g. Section 17 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: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate):

Head of Fin		Head of Leg	SD/10676 /18.01.11	Head of HR		Head of AM		Head of IT		Head of Strat. Proc. r.	
Originating CMF Member											

Report

1. Mr. Samuel Henry Kendall is a Licensed Private Hire Driver, having first been granted a Private Hire driver's licence by the Council on the 11th March 2009. Mr Kendall's present licence is due to expire on the 10th March 2011.
2. On the 09th November 2010, a road side inspection was carried out on a licensed Private Hire vehicle, a blue Vauxhall Vectra, registration number WR05 CYV, plate number 374. Due to the safety faults identified, an immediate Prohibition Notice was served, removing the vehicle from undertaking any further licensed work until such time as the defects were rectified. The details of this report are set out below:

On 09th November 2010 at 20:00hrs on Albert Road, Plymouth during a joint enforcement exercise with Devon & Cornwall Traffic Police.

The inspection revealed the front nearside tyre was worn to excess due to poor maintenance. Tread readings were taken with an MOT approved depth gauge, which gave the reading of 0.90mm on the outer part of the tread and 0.0mm on the inner part of the tread, legal limit being 1.6mm or above. The Officers served an Immediate Prohibition notice suspending the license of the Private Hire vehicle on the grounds of public safety and the licence plate was removed. A copy of the Suspension Notice is produced at the end of the report.

Mr. Kendall presented the vehicle for inspection on the 10th November 2010, the front nearside tyre had been replaced with a tyre which was above the legal limit. The plate was then returned to Mr. Kendall and the prohibition lifted. Since the prohibition was lifted, no further incidents of bad maintenance have been recorded.

3. Members are made aware that on the 11 February 2010, Mr. Kendall appeared before Members of the Licensing Committee where they considered the following matters:

On 22 August 2009, during a routine vehicle inspection while on foot patrol in Albert Rd at 14.16, Licensing Officers found Mr. Kendall's vehicle, plate number was 374 and the registration number R65CDA to have two defective front tyres, one of which had been worn to the steel cord on the inner edge. Officers issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defects had been rectified.

On 13 December 2009, during a joint enforcement exercise with Devon and Cornwall Constabulary Traffic Police, on Albert Road at 20.45, a Licensing Officer found Mr. Kendall's vehicle, plate number was 374 and the registration number WR05CYV, to have two tyres worn to excess on the front, one of which was below 50% of the legal limit. The Licensing Officer issued an immediate Vehicle Prohibition Notice, which suspended the vehicle licence until the defects had been rectified.

Mr. Kendall was given an endorseable fixed penalty notice for a defective tyre by Police Officer 6336 at the same time. This means he received a fine of £60 and 3 penalty points on his DVLA licence.

The report outlined Officers concerns regarding Mr. Kendall's inability to adequately maintain the licensed vehicle in his possession in particular, the tyres. Members at that time, decided to extend Mr. Kendall's probationary period for a further 12 months and, on the grounds of public safety, to suspend Mr Kendall's vehicle licence in accordance with S18(1) PCC Act 1975 until his vehicle had gone a full MOT and proof of the MOT was presented to the Licensing Office.

This latest inspection and subsequent suspension of the vehicle is within the further 12 month probationary period.

4. Officers are concerned that Mr. Kendall has repeatedly failed to adequately maintain the vehicle in his possession, in particular the tyres and the hazards that this could have on public safety.

Mr Kendall was the proprietor of the licensed vehicles when the subject of those roadside inspections and has consistently demonstrated a clear lack of regard for passengers and road safety within his probationary period.

5. Since these inspections Mr Kendall no longer owns a licensed vehicle, but now hires the same vehicle, licence number 374, from the current proprietor. This vehicle is now more than 5 years old and, as such, is subject to 6 monthly tests, the next being in March 2011.
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”.

In deciding whether Mr. Kendall 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 a driver 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, for example, no longer a “fit and proper” person or a breach of a condition of licence has been established.

Paragraph 8.2 - requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including the 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 before them to complete further training or retraining, should the driver’s suitability to retain a licence be called into question.

8. Members are asked to consider whether Mr. Kendall is a “fit and proper” person in light of the above report, as Officers remain concerned that the lack of maintenance of his own vehicle falls way below the minimum standards required to meet the Licensing Objectives in respect to the road safety of the travelling public.
9. Mr. Kendall has been invited to attend this Licensing Committee in order that this matter may be considered.

THIS NOTICE HAS IMMEDIATE EFFECT



Plymouth City Council Act 1975
Environmental Regulations Service – Licensing Section

Driver / Proprietor: * MR S KENDALL

Address: 

The following vehicle of which you are the driver / proprietor* was inspected pursuant to the provisions in section 26 of the Plymouth City Council Act 1975:

Plate no. 374 VRM: WR05 CY V

At (time): 20.00 hrs, on 09/11/10

At (place): ALBERT ROAD

And I am not satisfied as to:

1. Its fitness as a licensed vehicle by reason of the following defects:

(a) F/N/S tyre - excess wear

(b) 0 - 0.90

(c)

(d)

(e)

(f)

2. The accuracy of its taximeter.

I therefore give you notice pursuant to section 26 of the Plymouth City Council Act 1975:

(1) *That the above defects be rectified within days of the issue of this notice, and the vehicle presented to the issuing officer for further examination.

(2)*That the vehicle / taximeter must be made available for further inspection at a council approved registered test station for further testing by an authorised vehicle examiner as to its fitness / accuracy.

(3)*That the vehicle licence is **IMMEDIATELY SUSPENDED** (see Important Note 3 overleaf)

Signed: 

Issued by: J. Hirst

For * Head of Environmental Regulations Service
* Chief Constable

IMPORTANT NOTES

(1) If an unfit vehicle is used as a Hackney Carriage or Private Hire vehicle, the licence is liable to be **SUSPENDED** or **REVOKED**, and the driver may be prosecuted.

(2) If the vehicle is not satisfactorily tested within **2 months** the vehicle licence shall be revoked by virtue of section 26 of the Plymouth City Council Act 1975, and that section 18 sub-sections 2 and 3 shall apply.

* Delete as applicable

Continued overleaf