

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver Review of Driver Licence Status

Committee Licensing Committee (Hackney Carriage)

Date: 31 March 2011

Cabinet Member: Councillor Brookshaw

CMT Member: Director for Community Services

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Ref: ERS/LIC/MS/ps

Key decision: No

Part: I

Executive Summary:

Mr Petre Sich is a Private Hire driver having been licensed by this Council since 23 February 2007, that licence has been subject to periodic renewal with the present licence due to expire on the 22 February 2012.

On the 23 February 2011 Mr Sich renewed his Private Hire driver licence, and declared that he had received motoring convictions, but did not declare the offences or penalties imposed. Subsequent enquiries with the DVLA revealed the convictions referred to in the body of the report.

Mr Sich has also failed to comply with his conditions of licence as he has not reported the convictions as required.

Mr Sich has been invited to attend this Licensing Committee in order that these matters may be considered.

Corporate Plan 2011 – 2014:

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 puts 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	SD/14.3.11/11204	Head of HR		Head of AM		Head of IT		Head of Strat. Procur.	
Originating CMF Member											

Report

1. Mr Petre Sich is a licensed Private Hire driver having been first licensed by the Council on the 23 February 2007, that licence being subject to periodic renewal, the last renewal taking place on the 23 February 2011. As Mr Sich was unable to provide a GB Driving Licence counterpart for his renewal of licence to take place, he had to submit and pay for a DVLA driver licence status check the day before the renewal of licence could take place.
2. On the 23 February 2011 a reply was received from the DVLA which outlined the following motoring convictions:

On 10 November 2010 at Plymouth Magistrates Court

Convicted of Using a Mobile Phone While Driving a Motor Vehicle on 30 August 2010.
Fined £50 and DVLA licence endorsed with three penalty points.

Convicted of Using a Vehicle with a Defective Tyre on 30 August 2011.
Fined £100

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 that:-

*The licensed driver shall notify the 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 Sich has breached this condition of licence, as there is no trace of any written communication in respect of the convictions provided above.

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 Sich 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 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.

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

- Whether the conviction is 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 conviction 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 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 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 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 when considering the suitability of a person to hold or 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 asked to consider whether Mr Sich is a “fit and proper” person in light of the matters contained within this report.
7. Mr Sich has been invited to attend this Licensing Committee in order that this review may be considered.