

CITY OF PLYMOUTH

Subject: Licensed Hackney Carriage Driver Review of Licence Status
Committee Taxi Licensing Committee
Date: 26 January 2012
Cabinet Member: Councillor Jordan
CMT Member: Director of Place
Author: George Curness - Taxi Licensing Officer
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Ref: ERS/LIC/GC/ct
Key Decision: No
Part: 1

Executive Summary:

Mr. Cristian Teodoru is a licensed Hackney Carriage vehicle driver, having been first granted a Private Hire driver's licence by the Council on the 2 December 2008. Mr Teodoru transferred to Hackney Carriage on 14 May 2009, his present licence is due to expire on the 13 May 2012.

On the 16 December 2011 a copy of a UK counterpart was received from Mr Teodoru which indicated that he had received fines and penalty points on his driving licence.

Mr Teodoru has been invited to attend this Licensing Committee in order that this matter 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 and Diversity and Community Cohesion:

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:

It is recommended that the Members consider this report.

Alternative options considered and reasons for recommended action

None.

Background papers:

Sign off:

Fin		Leg	SD/22.12.1 I/13600	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

Report

1. Mr Cristian Teodoru is a licensed Hackney Carriage vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 2 December 2008. Mr Teodoru transferred to Hackney Carriage on 14 May 2009, his present licence is due to expire on the 13 May 2012.
2. On the 16 December 2011 a copy of a UK counterpart was received from Mr Teodoru which indicated that he had received fines and penalty points on his driving licence. these are detailed below:

On 4 April 2009, a fixed penalty fine and 3 penalty points were issued by Plymouth Magistrates' Court regarding an offence of Using a Mobile Phone Whilst Driving.

On 3 January 2011, a fixed penalty fine and 3 penalty points were issued by Plymouth Magistrates' Court regarding an offence of Exceeding the Statutory Speed Limit on a Public Road

On 14 May 2011, a fixed penalty fine and 3 penalty points were issued by Plymouth Magistrates' Court regarding an offence of Exceeding the Statutory Speed Limit on a Public Road

3. Therefore Mr Teodoru has nine current penalty points on his DVLA UK counterpart, all received whilst a Licensed driver.
4. Mr Teodoru has completed Level 2 NVQ in Road Passenger Vehicle Driving (Hackney Carriage or Private Hire vehicles)
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 Teodoru has breached this condition of licence, as there is no trace of him having complied with this condition in respect of the fixed penalty fine on 4 April 2009.

6. Byelaw 11 of the Hackney Carriage Byelaws 14 July 2009 require a driver of a hackney carriage to notify the Council of any motoring fixed penalty endorsements received, in writing within seven days of receiving the endorsement. There is no record of Mr Teodoru complying with this requirement.
7. Members are asked to consider whether Mr Teodoru is a "fit and proper" person in light of the above fixed penalty offences, breach of his Private Hire licence and failure to comply with the Hackney Carriage byelaws and what, if any sanction, needs to be applied to his Hackney Carriage driver licence.
8. 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.

9. In deciding whether Mr Teodoru 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 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, 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 or other information 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 retain a licence.

10. For their information Members are made aware that at the time of the second and third fixed penalty notices Mr Teodoru was a licensed Hackney Carriage driver, so Paragraph 11 of the Hackney Carriage Bye-Laws applies, which states that the driver (of a Hackney Carriage) shall inform the Council of any fixed penalty endorsements received, within seven days of receiving the endorsement.
11. Mr Teodoru has been invited to attend this Taxi Licensing Committee in order that this matter may be considered.