

## 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 – Licensing Officer (Taxis)  
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**Ref:** ERS/LIC/GC/jt  
**Key Decision:** No  
**Part:** I

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### **Executive Summary:**

Mr Jaroslav Trenik is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by this Council on the 1 October 2007. He transferred his licence to Hackney Carriage from Private Hire on 20 December 2010. His current licence is due to expire on 19 December 2012.

On 6 December 2011 Mr Trenik attended the Civic Centre, when it was noted that Mr. Trenik had received motoring convictions on his DVLA licence, which had not been reported in the correct manner.

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

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### **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.

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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: 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.

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**Recommendations and Reasons for recommended action:**

Members of the Taxi Licensing Committee consider this report.

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**Alternative options considered and reasons for recommended action**

None.

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**Background papers:**

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**Sign off:**

Fin		Leg	<b>SD/23.12.11/13610</b>	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

## Report

1. Mr Jaroslav Trenik is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by this Council on the 1 October 2007. He transferred his licence to Hackney Carriage from Private Hire on 20 December 2010. His current licence is due to expire on 19 December 2012.
2. On 6 December 2011 Mr Trenik attended the Civic Centre, when it was noted that Mr Trenik had received motoring convictions on his DVLA licence which had not been reported in the correct manner.

A memorandum of conviction was subsequently obtained from Plymouth Magistrates' court on 7 December 2011, which revealed the information below:

### **26 October 2009 at Plymouth Magistrates' Court**

Mr Trenik was convicted of using a hand held mobile phone while driving a motor vehicle on a road. The offence took place on 9 September 2009 on Sutton Road Plymouth in a vehicle registration number YA52AYV.

Contrary to Regulation 110(1) of the Road Vehicles (Construction and Use) Regulations 1986, S 41D of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Trenik was fined £60 and ordered to pay a Victim Surcharge of £15. His DVLA counterpart was endorsed with 3 penalty points.

At the time of this offence the vehicle in question was a licensed vehicle with Plymouth City Council, hired to Mr Trenik.

### **On 10 September 2009 at Honiton Magistrates' Court**

Mr Trenik was convicted of speeding, exceeding the 70 mph motorway limit. The offence took place on 8 July 2009 at Cullompton, Devon on the M5 motorway in a vehicle registration number WK02VKH.

Contrary to Regulation 3 of the Motorways Traffic (speed limit) Regulations 1974, S.17(4) of the Road Traffic Regulation Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Trenik was fined £350 and ordered to pay a Victim Surcharge of £15 and £85 costs. His DVLA counterpart was endorsed with 5 penalty points.

Convicted of Using a Motor Vehicle without a test certificate on the same date.

Contrary to S47(1) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

There was no separate penalty for this offence.

At the time of this offence the vehicle in question was a licensed vehicle with Plymouth City Council, owned by Mr Trenik.

### **On 9 January 2009 at Plymouth Magistrates' Court**

Mr Trenik was convicted of speeding, exceeding the 30 mph local order. The offence took place on 26 May 2008 at Horrabridge, Devon on the A386, in a vehicle registration number MJ52KHF.

Contrary to the relevant local order and S.84 and 89(1) of the Road Traffic Regulation Act 1984 and Schedule 2 to the Road Traffic Offenders Act 1988.

Mr Trenik was fined £45 and ordered to pay a Victim Surcharge of £15. His DVLA counterpart was endorsed with 3 penalty points.

At the time of this offence the vehicle in question was a licensed vehicle with Plymouth City Council, hired to Mr Trenik.

On 22 October 2011 Mr Trenik received a fixed penalty fine and 3 penalty points for contravention of a Traffic Light signal.

3. At the time of writing this report Mr Trenik has a total of 14 current penalty points endorsed on his DVLA driving licence, as in addition to the above Mr Trenik had been convicted of speeding on the 15 December 2008 and received a fine of £45 and 3 penalty points. At the time of the Committee hearing on 26 January 2012, these three penalty points will be spent. An enquiry to Police informed the Licensing Office that it may have been a clerical error that was not picked up, that led to the final three penalty points being awarded to Mr Trenik without a consideration of disqualification.
4. 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 Trenik was a Private Hire driver at the time of all the convictions and has breached this condition of licence, as there is no trace of him having complied with this condition in respect of any of the convictions mentioned above.

5. Members are made aware that Mr Trenik's vehicle has been inspected by licensing officers on numerous occasions.

**On 5 July 2009**, a Private Hire vehicle, registration number WK02VKH, was inspected and was found to have a tyre with tread below the legal limit, the vehicle licence was immediately suspended. The vehicle suspension was lifted the same day after the fault was rectified.

**On 22 December 2010**, a Hackney Carriage, registration number W951VLY, was inspected and found to have a dip lamp not working, two tyres below the legal limit and the middle tip-up seat was broken, the vehicle licence was immediately suspended. The vehicle licence suspension was lifted on 23 December 2010 after the faults were rectified.

**On 11 March 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have a front indicator assembly faulty, and in danger of falling out, the front bumper was insecure, the O/S tip up seat had a weld failure and the N/S passenger door check-strap was not functioning, the vehicle licence was immediately suspended. The vehicle suspension was lifted on 12 March 2011 after the faults were rectified.

**On 14 March 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have the O/S stop lamp not working, a rear seat was split, and there was no insurance certificate in the vehicle. The driver was issued with a VDR requiring the faults to be rectified in 2 days, and they were rectified on 16 March 2011.

**On 12 May 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have the N/S stop lamp not working and the door check-straps were faulty. The stop lamp was rectified immediately and the check-straps were repaired by 17 May 2011.

**On 4 October 2011**, a Hackney Carriage, registration number W951VLY, was inspected and found to have the N/S rear tyre with no tread on the inner part. The front N/S hub cap was missing and there were marks on the front screen obstructing the drivers view, and the vehicle licence was immediately suspended. The faults were rectified the same day, and the suspension was lifted.

Members are made aware that, the overall management of the vehicle and its road worthiness is the responsibility of the vehicle user, in this case Mr Trenik.

6. Members are asked to consider whether Mr Trenik is a “fit and proper” person and whether any action should be taken against his Hackney Carriage driver’s licence in light of the above motoring convictions, breach of his Private Hire Driver’s licence conditions, and lack of maintenance of the vehicles that he drives.
7. 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 ~~ae~~
8. In reaching their decision, Members must have regard to the Council’s Hackney Carriage and Private Hire Licensing Policy. The relevant parts of the Council’s policy 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 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** – 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)
- 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 before 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 a criminal record does not automatically prevent an 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 convictions are relevant offences for considering the suitability of a person to retain a licence.

**Paragraph 6** – states that driving licence endorsements which include fixed penalties are highly relevant, although having an endorsement will not automatically preclude a person from holding a licence.

**Paragraph 8** – states that any driver who receives a conviction within their licence period will be referred to the Taxi Licensing Committee in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

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