

## CITY OF PLYMOUTH

**Subject:** Licensed Hackney Carriage Driver – Review of Licence Status  
**Committee** Taxi Licensing Committee  
**Date:** 19 April 2012  
**Cabinet Member:** Councillor Jordan  
**CMT Member:** Director for Place  
**Author:** George Curness – Licensing Officer (Taxis)  
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**Ref:** ERS/LIC/GC/mm  
**Key Decision:** No  
**Part:** I

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### **Executive Summary:**

Mr Mihai Ovidiu Mindrutescu is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by this Council on the 29 September 2009. He was granted a Hackney Carriage drivers licence 28 March 2011. His current licence is due to expire on 27 March 2013.

On 24 February 2012, during a joint enforcement operation with Devon and Cornwall Police, the vehicle driven by Mr Mindrutescu was found to be un-roadworthy.

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

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### **Corporate Plan 2012 – 2015:**

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. Community Safety, Health and Safety, Risk Management and Equality, 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:**

That Members of the Licensing Committee consider this report.

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

None.

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**Background papers:**

None.

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**Sign off:**

Fin		Leg	AZG/14346 /29.3.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

## Report

1. Mr Mihai Ovidiu Mindrutescu is a licensed Hackney Carriage driver, having been first granted a Private Hire driver's licence by this Council on the 29 September 2009. He was granted a Hackney Carriage drivers licence 28 March 2011. His current licence is due to expire on 27 March 2013.
2. On 24 February 2012, during a joint enforcement operation with Devon and Cornwall Police, the vehicle driven by Mr Mindrutescu, licence number 781, VRM WI88KDA, was found to be un-roadworthy.
3. The details of the inspection are as follows,

The front driver's side tyre was found to be worn to excess. Photos of the tyre are reproduced at the end of this report as appendix 2.

The passenger side stop lamp, the rear passenger side lamp and the front driver's side indicator were not working.

The passenger "tip up" seat was not secure.

There was no insurance document present in the vehicle.

The Police Constable present confirmed that insurance was valid, and then issued a fixed penalty notice for three penalty points to Mr Mindrutescu for the tyre offence

4. The vehicle licence was immediately suspended, the work was completed and the suspension was lifted the following day. The suspension notice is reproduced at the end of this report as appendix 1.
5. Members are made aware that Mr Mindrutescu's vehicle has been inspected by licensing officers on other occasions.

On 30 June 2011, a Hackney Carriage, registration number W212KDA, was inspected and was found to have a tyre with tread on the legal limit, advice was given to get the tyre changed. The fault was rectified.

On 17 July 2010, a private hire vehicle, registration number RE03AXS, was inspected and found to have no faults

On 16 December 2009, a private hire vehicle, registration number KA54DVO was inspected and found to have a seat belt fault, and advice was given regarding the wear on the front passenger side tyre. The faults were rectified the same day.

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 Mindrutescu.

6. Enquiries were made to the proprietor of the vehicle, registration number WI88KDA, who stated that Mr Mindrutescu is the sole driver of the vehicle. The proprietor alleges that Mr Mindrutescu has been informed that the proprietor has an account with a tyre retailer and could visit that retailer at any time, assuming that the retailer was open for business.
7. An inspection of Mr Mindrutescu's DVLA licence reveals the above offence on 24 February 2012. In addition, the following offence is recorded on his licence :-

That on 4 January 2011 at Plymouth Magistrates' Court.

Convicted of Driving Without Due Care and Attention.

Mr Mindrutescu was fined £133 and his DVLA licence was endorsed with 3 penalty points.

8. At the time of the offence on 4 January 2011, Mr Mindrutescu was a Private Hire driver, 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(b) of the licence requires:-

*The licensed driver shall notify the Council's Licensing Unit **in writing** of a change of office from which she/he operates, within 7 days.*

It would appear that Mr Mindrutescu has breached this condition of licence, as there is no trace of him having informed the Licensing Office, in writing, of his conviction. This information was only ascertained during the renewal of Mr Mindrutescu's Hackney Carriage driver's licence on 27 March 2012.

9. Members are asked to consider whether Mr Mindrutescu is a "fit and proper" person and whether any action should be taken against his Hackney Carriage driver's licence in light of the lack of maintenance of the vehicles that he drives, the motoring conviction and breach of condition.
10. 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 ~~ca~~
11. 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”.

**Paragraph 8.2** - requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, 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 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 and contravention of licensing laws or conditions 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.

12. Members are made aware that Mr Mindrutescu has completed the BTec in Transporting Passengers by Taxi and Private Hire
13. Mr Mindrutescu has been invited to attend this Taxi 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 M. MINDROJESCU

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. 781 VRM: W188KDA

At (time): 23.25 hrs, on 24.12.12

At (place): NORTH HILL

And I am not satisfied as to:

1. Its fitness as a licensed vehicle with the following defects:
  - (a) DISK TYRE WORK TO CORN
  - (b) CORN BRACKEN IN PLACE
  - (c) N/S STOP LIGHT N/W
  - (d) N/S R LIGHT BOLT
  - (e) DISK FLASHER N/W
  - (f) NO INSURANCE  
DISK TIP UP SEAT ADJUST
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 7 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: [Signature]

Issued by: [Signature]

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.



## Appendix 2





