

CITY OF PLYMOUTH

Subject: Licensed Hackney Carriage Driver – Review of Licence Status
Committee Taxi Licensing Committee
Date: 20 December 2012
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne, Director for Place
Author: Steve Forshaw, Taxi Licensing Officer
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Ref: PPS/LIC/SF
Key Decision: No
Part: I

Purpose of the report:

For Members of the Committee to review the status of the Hackney Carriage driver licence held by Mr Cristian-Menelaos Craciun, having due regard for the information contained within this report, any representations made by the applicant and the Taxi Licensing Policy of the Council.

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities. In particular:

Provide value for communities

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

Not applicable.

Other Implications: e.g. Child Poverty, 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.

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:

None.

Sign off:

Fin		Leg	SD/6.12.12/16298	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member:											
Have you consulted the Cabinet Member(s) named on the report? No											

Report

1. Mr Cristian- Melelaos Craciun is a licensed Hackney Carriage driver, having been first granted a Licence on 8 July 2011. This licence has been subject to periodic renewal and his current licence is due to expire on the 8 July 2013. On 18 October 2012 the taxi licensing office was informed by a Plymouth Magistrates court enforcement officer of motoring Offences obtained by Mr Craciun. A memorandum of conviction was subsequently obtained from Plymouth Magistrates' court on 1 November 2012, which revealed the information below:

On 14 August 2012 at Plymouth Magistrates

On 3 March 2012 Mr Craciun drove a Metro cab index number W195KDA at a speed exceeding the speed limit Contrary to S.81 (1) and S. 89(1) and Schedule 2 of the Road Traffic Regulations Act 1984. The Offence was withdrawn.

On 21 April 2012 Mr Craciun failed to give information relating to the identification of the driver of the Metro cab index number W195KDA who was alleged to have been guilty of the above speeding offence. Contrary to S. 81(1) and S. 89(1) of the Road Traffic Regulations Act 1984. (Alternative summons to excess speed). Fined £600.00 ordered to pay £15.00 victim surcharge and ordered to pay costs of £85.00 to the Crown Prosecution Service. Mr Craciun's DVLA licence was endorsed with 6 points.

Members are made aware that during the application process and prior to a licence being granted on 21 April 2011 Mr Craciun was convicted of using a hand held- mobile phone whilst driving. Fined £60.00 and ordered to pay a victim surcharge of £15.00. Mr Craciun's DVLA licence was endorsed with 3 points.

2. On checking the memorandum of convictions it was noted that Mr Craciun had received penalty points on his DVLA licence, which had not been reported to the Licensing Office in the correct manner.
3. Hackney carriage Byelaws state where a hackney carriage driver is convicted in a court of law of any motoring offence, or any offence involving dishonesty, indecency, violence, drug or alcohol related matters, the driver shall notify the Council in writing within seven days of the conviction. The driver shall further inform the Council of any motoring fixed penalty endorsements received, within seven days of receiving the endorsement. There is no record of Mr Craciun having complied with this byelaw.
4. Members are asked to consider whether Mr Craciun is a 'fit and proper' person in light of the above convictions and breach of the byelaws, and determine what, if any sanction, needs to be applied to his hackney carriage licence.

5. 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.
6. In deciding whether Mr Craciun 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 Taxi licensing 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 behavior.

Paragraph 2 - States that motoring offences are relevant offences for considering the suitability of a person to hold or retain a licence.

Paragraph 8 – States that any driver who receives a conviction within their license 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.

7. Mr Craciun has completed the level 2 NVQ in Road Passenger Vehicle Driving as required.
8. Mr Craciun has been invited to attend this Taxi Licensing Committee in order that these matters may be considered.