

CITY OF PLYMOUTH

Subject: Licensed Private Hire Driver – Review of Licence Status
Committee: Taxi Licensing Committee
Date: 24 January 2013
Cabinet Member: Councillor Coker
CMT Member: Anthony Payne, Director for Place
Author: George Curness – Licensing Officer (Taxis)
Contact: Tel: 01752 307964 e-mail george.curness@plymouth.gov.uk
Ref: ERS/LIC/GC/pm
Key Decision: No
Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr Petrisor Marasesecu, having due regard for the information contained within the report, any representations made by Mr Marasescu 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 and Risk Management:

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.

Equality and Diversity

Has an Equality Impact Assessment been undertaken - No

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: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate)

Fin		Leg	16510/AZG/ 4.1.13	Mo n Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

Report

1. Mr. Petrisor Marasescu is a licensed Private Hire vehicle driver, having been first granted a Private Hire driver's licence by this Council on the 2 September 2009. His current licence is due to expire on 13 September 2015.
2. On 19 December 2012, during a joint enforcement patrol, the vehicle, registration number YE54SNY - licence number 1314, driven by Mr Marasescu was found to be un-roadworthy.

The details of the inspection are as follows,

The rear passenger's side tyre was found to be worn to excess on the outside tread.
The front driver's side tyre was worn to excess, cord was showing on the inner tread.
The rear driver's side tyre was worn to the legal limit of 1.6mm.

The vehicle licence was immediately suspended, the work was completed and the suspension was lifted the same day. Photographs of the tyres are reproduced at the end of this report as appendix 1.

The Police Officer at that time reported Mr Marasescu to Court, rather than issue a fixed penalty notice. A copy of his statement is reproduced as appendix 2.

3. Members are made aware that on 27 October 2012, Mr Marasescu's Private Hire driver's licence was reviewed for a similar matter. At this time Members decided to suspend Mr Marasescu's drivers licence for 3 days and warned him as to his future conduct. The decision letter is reproduced as Appendix 3.

On that occasion, Members were told that on 31 July 2012, during an enforcement patrol the passenger side front tyre of vehicle licence number 1314, driven by and licensed to Mr Marasescu was found to be worn to excess so that cord was showing.

In addition, on 22 June 2011, licence number 1314 was found to have a space saver tyre on the rear offside of the vehicle. This is not permitted for public use and a suspension notice was issued Which was lifted on 23 June 2011.

On 20 April 2011, a private hire vehicle, licence number 1372 was inspected and found to have no faults.

On 22 October 2010, a private hire vehicle, licence number 1372 was inspected and found to have no washers working, there was no "bulb kit" available and the vehicle had a dirty interior. The faults were rectified on 25 October 2010.

On 28 October 2009, a private hire vehicle, licence number 1188 was inspected and found to have no number plate lamps and 2 x body damage. The licence faults were rectified the same day.

4. It is a condition of the Private Hire Vehicle Licence (condition 16) that all tyres and wheel (including the spare) must meet the legal requirements as to suitability for use of the vehicle. Tyres must have a minimum tread depth as required by law. They must be kept in good order and at the correct pressures. A wheel brace and car jack to enable the effective change of tyre and wheel must be carried.
5. Members are made aware that, as the owner and sole driver of this vehicle, Mr Marasescu is responsible for its road worthiness. The faults on the tyres could be plainly seen and having

regard to the fact that Mr Marasescu was before the Members of the Licensing Committee, within the last three months, raises concerns regarding Mr Marasescu's attitude towards the safety of his passengers and to the rules that are attached to vehicles and their maintenance.

6. Members are asked to consider whether Mr Marasescu is a 'fit and proper' person and whether any action should be taken against his Private Hire driver's licence in light of the 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 cause.
8. Members are also asked to consider whether Mr Marasescu's vehicle is fit for use as a Private Hire vehicle and whether any action should be taken against Mr Marasescu's vehicle licence in light of the above failed inspections. Members may require Mr Marasescu to present his vehicle for test up to four times per year or decide to impose other sanctions.
9. The actions open to Members are those contained in Section 18(1) (b) of the Plymouth City Council Act 1975 which provides for the Council to suspend, revoke or refuse to renew a vehicle licence on the grounds that the Hackney Carriage or Private Hire vehicle is unfit for use as a Hackney Carriage or Private Hire vehicle or for any other reasonable cause.
10. 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 7.2 – states that licensed vehicles will be subject to periodic random inspections by authorised officers or its agents to ensure the vehicle is fit for purpose.

Paragraph 7.3 – States that where the Licensing Committee is satisfied that a vehicle fails to meet any specification or condition of license or the relevant construction and use regulations required by law, they may suspend, revoke or refuse to renew a vehicle's license for any specified period.

Paragraph 7.4 – States that an authorised officer may suspend the licence of a licensed vehicle where it is found to have a defect which poses a danger to either passengers or other members of the public, until such time as the defect has been remedied.

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 where 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 before them to complete further training or retraining, should the drivers' suitability to retain a licence be called into question.

11. Members are made aware that Mr Marasescu has completed the BTec in Transporting Passengers by Taxi and Private Hire.
12. Mr. Marasescu has been invited to attend this Licensing Committee in order that this matter may be considered.

Appendix I



Appendix 2

Statement of: **IAN MICHAEL BAGGOTT**

Age if under 18 (if over insert "over 18"): **Over 18**

Occupation: **Police Constable 3286**

This statement (consisting of2..... Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature:

Date: **20/12/2012**

I am a Police Constable in the Devon and Cornwall Constabulary currently stationed at Plympton Police Station as a Road Casualty Reduction Officer.

At 1025 hours on Wednesday 19th December 2012 I was on duty in uniform in an unmarked Police patrol vehicle accompanied by a Plymouth City Council taxi and private hire vehicle enforcement officer. At that time I saw a silver Vauxhall Vectra private hire vehicle registered number YE54SNY being driven on North Road East, Plymouth approaching the First Great Western railway station. The vehicle pulled up outside the main entrance and a male passenger got out. I approached the driver of the vehicle and ascertained that he had just dropped off a paying fare.

Upon examination of the vehicle I discovered that the tread on two of the tyres were below the legal limit of 1.6mm and one of those tyres also had cord exposed. I requested the driver to pull over into the British Transport Police car park where I could deal with him.

Upon further examination I discovered that the front offside was a Bridgestone 205 55 R16 radial. There was cord exposed on the inner edge of the tyre. The tread on the centre $\frac{3}{4}$ of the tyre was also under the 1.6mm legal limit, down to 1.03mm in places.

The rear nearside tyre was a Michelin 215 55 R16 radial. The tread over the centre $\frac{3}{4}$ of this tyre was less than the legal limit of 1.6mm, ranging between 0.9mm to 1.4mm.

The driver identified himself to me as Petrisor MARASESCU b. [REDACTED]

[REDACTED] He produced to me his driving licence number [REDACTED]

I cautioned MARASESCU and pointed out the offences with the tyres.

MARASESCU replied "NO REASON"

I said to MARASESCU "You stand reported for driving your vehicle on a road today and failing to maintain the front offside tyre and the rear nearside tyre. Do you understand"

MARASESCU replied "YES"

Photographs were taken of the tyres and the vehicle which I exhibit as IMB/1.

At the time of the offences it was raining heavily and the road surface was wet. There was also standing water on the roads.

Mr P Marasescu

Environmental Services
Public Protection Services
Plymouth City Council
Civic Centre
Plymouth PL1 2AA
T: 01752 304744
F: 01752 226314
E: taxi.licensing@plymouth.gov.uk
www.plymouth.gov.uk

Please ask for: Steve Forshaw

Date: 26/10/12

My Ref: sf/comm/Sus

Your Ref:

Dear Mr Marasescu,

Decision of the Taxi Licensing Committee

I am writing in connection with the review of the status of your Private Hire driver licence which was considered on 25th October 2012 by members of the Taxi Licensing Committee.

The decision of the Committee is therefore that :-

Your failure to maintain your vehicle correctly has led to your vehicle being found to be defective and in some instances dangerous on four occasions.

In respect of your vehicle licence and in accordance with S18 PCCA 1975, Members have decided it is a proportionate decision to suspend your vehicle licence number 1314 for 2 days.

In respect of your PHDL, Members have serious concerns regarding the apparent disregard for public safety displayed by yourself and therefore consider it proportionate to suspend your private hire drivers licence for a period of 3 days subject to s19(1) (b) Plymouth City Council Act 1975.

You have the right of appeal to the Magistrates Court against the decision of the Council by virtue of Section 19(3) of the Plymouth City Council Act 1975. Your appeal should be lodged at the Magistrates Court within 21 days and must therefore be made by **17th November 2012**.

Should you decide to appeal, you should take this letter with you to request an appeal hearing. The Magistrates Court may require a fee, which you will be required to pay before they accept any appeal against the Council's decision.

Should you not appeal within the 21 day period, then you shall be required on the 22nd day after the decision to suspend your licence, return your Private Hire drivers badge and licence to the licensing office which will be returned to you at the end of your suspension period. If you do not wish to appeal this decision and wish to commence your suspension earlier than the date above, please contact me to discuss this. During your suspension you will not be permitted to drive any Private Hire vehicle licensed by this Council.

Should you wish to contact me to discuss this matter, I can be contacted on the number above.

Yours Faithfully

Licensing Officer (Taxi)
Public Protection Service