

Report to Regulatory Panel

Agenda
Item:

A.1

Meeting Date: 15th November 2017
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and Budget Framework NO
Public / Private Public

Title: PHILIP JOSEPH LEE – HACKNEY CARRIAGE DRIVER –
MOTORING CONVICTIONS

Report of: Corporate Director of Governance and Regulatory Services
Report Number: GD 67 /17

Purpose/Summary

Philip Lee is a Licensed Hackney Carriage Driver. He has notified the Council of a recent conviction for speeding.

Recommendation:-

To reach a decision from the options available, after hearing the evidence and the response from Mr Lee in accordance with Section 61 (1) (a) (i) of the Local Government (Miscellaneous Provisions) Act 1976.

Tracking

Executive:	n/a
Overview and Scrutiny:	n/a
Council:	n/a

<u>NAME</u>	Philip Lee
<u>DATE OF BIRTH</u>	05/10/1958
<u>ADDRESS</u>	Wigton Road, Carlisle

Licensing History

Carlisle City Council has licensed Mr Lee as a Hackney Carriage Driver since 2001 and as Private Hire Driver in 2005 and 2006. He currently holds a Hackney Carriage driver licence. **(Appendix 1)**

Since 2003 Mr Lee has the following history recorded:

01/11/03 Speeding 51mph in 30 limit Metheun Street Glasgow (carrying passengers).
06/11/03 Speeding 36mph in 30 limit Tyneview Road Hexham (no passengers).
21/01/04 Appeared before Regulatory Panel because of above two offences when an official written warning was issued.
24/09/05 Speeding 47mph in 40 limit M6 Northbound Cheshire. (no passengers).
21/10/05 Warning letter issued regarding above offence. **(Appendix 3)**
06/01/12 Speeding 37mph in 30 limit Longtown Road Bampton (No passengers)
03/02/12 Warning letter issued regarding above offence. **(Appendix 4)**
16/12/12 Speeding 40mph in 30 limit Warwick Bridge Carlisle (No passengers).
15/01/13 Warning letter issued regarding above offence. **(Appendix 5)**
26/09/14 Speeding in 30mph limit Bampton Road Carlisle (No passengers).
17/09/15 Final Warning letter issued. **(Appendix 6)**

There is an obligation under the Hackney Carriage driver's code of practice that they must inform the Council, in writing, of any offence within 7 days, of any conviction, either motoring or criminal.

Mr Lee failed to carry this out in relation to the speeding offence dated 26/09/14 and a reminder of this was included within the final written warning letter forwarded to him on 7th September 2015. **(Appendix 6)**

BACKGROUND

During an Annual Administration check on the 29th September 17 **(Appendix 2)** it was discovered that Mr Lee had declared on a Statutory Declaration a further speeding offence that had occurred on 22nd January 2017. The Licensing Office had not been informed of this, and as a result Mr Lee was invited to attend the Civic Centre to explain details of the offence and why the Licensing Office had not been informed.

Whilst attending the Civic Centre Mr Lee explained to the Licensing Officer that the offence occurred on the 22nd January 2017. In February 2017, City Taxis (his operator) had received a notice to inform the Central Ticket Office as to the identity of the driver for the vehicle concerned. As a result later that month he acknowledged in writing that he was the driver of the vehicle at the time of the offence and in March 2017 received the Fixed Penalty Notice. He then forwarded the Licensing Office an e mail on 28th March 17 informing them of the conviction as well as the circumstances. He did provide the officer a screenshot of the e mail on his mobile phone (**Appendix 7**). It was noted by the officer that the spelling of 'licensing' within the e mail was incorrect and the Licensing Office had not received the e mail.

Mr Lee stated that his memory of the offence wasn't clear because of the time between the offence occurring and when he actually became aware it, but the notice had been issued for travelling at 37mph in a 30 limit whilst travelling eastbound at Warwick Bridge (A69). He believes he was travelling to his mother's address in the North East at that time and was not carrying any fare paying passengers.

Mr Lee apologised for this latest conviction and confirms that he has now 6 points endorsed on his licence of which 3 are valid until 22/01/20 and 3 that are no longer valid but will remain on the licence until 26/09/18. (**Appendix 8**)

LEGAL COMMENTS & LEGISLATION

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a licensing authority shall not grant a Hackney Carriage Driver's Licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. Section 61(1)(b) enables the Panel to take action in respect of a Driver on a number of grounds, notwithstanding that no criminal proceedings have been brought, if they consider that circumstances exist which mean that the driver is not, or is no longer, a fit and proper person to hold a driving licence. Section 61 (1)(b) gives the ground of **'for any other reasonable cause'** (**Appendix 9**).

While there is no statutory definition of 'fit and proper person', the Courts have given helpful guidance over the years and it is established that the objectives of the licensing regime are intended to ensure that licensed drivers are "suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers" (*McCool –v- Rushcliffe Borough Council [1998]*).

Mr Lee has disclosed the above speeding conviction and having heard Mr Lee and established the facts, Members need to consider whether he is, in light of these facts, a fit and proper person to continue to hold his licence. If not, it should be revoked. If the

misconduct is not, however, enough to lead to that conclusion, the Panel may consider whether a suspension or other lesser sanction is appropriate.

It is recommended that after hearing the evidence and any representations from Mr Lee, members reach a decision in line with the options available.

OPTIONS

1. To issue him with a letter of warning.
2. To suspend his Hackney Carriage drivers licence for a period of time.
3. To revoke his Hackney Carriage drivers licence.
4. To require Mr Lee to undertake and pass an approved provider driving test and or speed awareness training.

Contact Officer: Fred Watson

Ext: 7028

Appendices attached to report:	1 – Copy of Hackney Driver licence 2 – Hackney Driver annual administration check dated 08/09/17 3 - Warning letter issued 21/10/05 4 - Warning letter issued 03/02/12 5 - Warning letter issued 15/01/13 6 - Final warning letter issued 7/09/15 7 - Copy of e mail from Mr Lee dated 28/03/17 8 – DVLA Driving Licence Record 9 - Section 61 Local Govt. (Miscellaneous Provisions) Act 1976
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Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:
Miscellaneous Provisions Act 1976

CORPORATE IMPLICATIONS/RISKS:
Governance – Included within report

City of



Carlisle

Hackney Carriage Driver Licence **HD657**

Licence Holder

Phillip Joseph LEE

Wigton Road
Carlisle
Cumbria



Date of birth **05 Oct 1958**

Licence Validity

Valid from **01 Nov 2016** to **31 Oct 2019**

IMPORTANT NOTES

- This licence is subject to the provisions of the Town Police Clauses Act 1847, the bylaws made thereunder, the Local Government (Miscellaneous Provisions) Act 1976 and the Conditions attached to the licence made under it, the Transport Act 1985 and any other relevant Acts.
- The possession of this document does not guarantee that the licence is in force. Its validity may be established by reference to the Council's Licensing Office.
- This licence is not transferable

Wheelchair Accessible

Non Wheelchair Accessible

Conditions applicable to this
licence are attached.

Licensing Manager

Dated: **01 Sep 2016**

CITY OF CARLISLE

HACKNEY CARRIAGE/PRIVATE HIRE DRIVER

RECEIVED ANNUAL ADMINISTRATION CHECK

Return to:
Licensing Manager
Governance Directorate
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG

To be completed by Office

Lalpac No.	
Checks Complete	27/9
Licensing Officer	ET

<input checked="" type="checkbox"/>	DRIVING LICENCE STATUS/ENDORSEMENT CHECK
<input checked="" type="checkbox"/>	MEDICAL EXAMINATION /SELF CERTIFIED
<input checked="" type="checkbox"/>	STATUTORY DECLARATION RECEIVED

SEE ATTACHED
UNDISCLOSED
SPEEDING

FILE No 234

Licence Number (s)	HD 657 PD
Full Name	MR PHILIP J. LEE
Current Home Address	WIGTON ROAD CARLISLE CUMBRIA
Home Telephone Number.	N/A
Mobile Telephone Number	
Email	
Date of Birth	5th OCTOBER 1958
Name of Radio Circuit/Operator	CITY TAXIS
Driving Licence Number	
National Insurance Number	

I hereby submit details in order for the Licensing Authority to undertake an Annual Administration Check for my Hackney Carriage and/or Private Hire Driving. I understand it is an offence to knowingly or recklessly make a false statement or omit any material particulars in giving the above information.

I give Carlisle City Council consent to view my driving licence information through the Government digital enquiry service (Gov.uk)

Date: 8/9/2017 Signature:.....

STATUTORY DECLARATION

I Philip Joseph Lee of Wigton Road, Carlisle
 Date of Birth 5/10/58

DO SOLEMNLY DECLARE as follows:

- For at least twelve months prior to the date hereof I have held a licence (not being a provisional licence) under Part III of the Road Traffic Act 1972 authorising me to drive a motor car.
- ~~* I have never been convicted of any offence~~

OR (* DELETE AS APPLICABLE)

- * I have been convicted of an offence or offences and I list below every offence which I have been convicted of including the date of the offence, the date of conviction, the court at which convicted and the sentence imposed by the court. This list includes any penalty imposed upon me other than by a Court but as a result of any legal process.

Date of offence	Date of conviction	Offence	Court at which convicted	Sentence or Order of the Court or Fixed Penalty Notice
22/1/2017		SP30		3 PENALTY POINTS
26/9/2014		SP30		3 PENALTY POINTS

I have not been convicted of any other offence except as set out above and I make this solemn declaration conscientiously believing the same along with the answers given in the attached application form to be true and by virtue of the provisions of the Statutory Declarations Act, 1835, and Section 5 of the Perjury Act, 1911.

Declared at 22 Portland Square, Carlisle

This 22nd day September 2017

Signature of applicant

In the County of Cumbria

Before me Abbie Michelle White

Solicitor/Commissioner for Oaths

Office Address & Stamp (if available)



APPLICANTS ARE REMINDED THAT AS FAILURE TO COMPLETE THIS DECLARATION CORRECTLY COULD GIVE RISE TO CRIMINAL PROCEEDINGS, IT IS IMPORTANT THAT THE SOLICITOR INVOLVED IS GIVEN ALL THE RELEVANT FACTS.

THE DECLARATION ABOVE RELATES TO **ALL OFFENCES** INCLUDING ANY MOTORING OFFENCES AND MUST INCLUDE ALL CONVICTIONS EVEN THOUGH THEY MAY HAVE BEEN DISCLOSED ON PREVIOUS APPLICATIONS. BY VIRTUE OF THE REHABILITATION OF OFFENDERS ACT 1974 EXCEPTIONS ORDER 1975 AS AMENDED, (Hackney/Private Hire Drivers being a listed occupation)

ALL SPENT CONVICTIONS MUST BE DISCLOSED

Environmental Protection Services

Head of Environmental Protection Services :
Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023
Document Exchange Quote DX 63037 Carlisle Type talk please ring 0800 95 95 98
Council Website www.carlisle.gov.uk

Philip Lee
Kendal Street
Carlisle

Please ask for:

Mr J A Messenger
Mr B Sharrock
01228 817523

Direct Line:

E-mail:

Your ref:

Our ref:

Licensing/BS

21 October 2005

Dear Sir,

You recently reported to my Licensing Officer that on the 24th September 2005 you were issued with a fixed penalty ticket and 3 penalty points for speeding.

I am also aware of 2 previous speeding convictions in the last two years and an appearance before the Council's Licensing Panel where you were issued with a written warning regarding these two offences.

I am also aware of two complaints made by members of the public about your manner of driving.

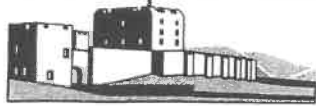
Because of the relatively low speed recorded (47mph in a 40mph limit) I am prepared to deal with this latest offence by way of an official caution.

I must warn you however that should there be any further convictions, or indeed any breaches of the conditions of your Licence, it may be necessary for you to appear before the Licensing Panel where the options open to the members include the revocation or suspension of your Hackney Carriage or Private Hire Driver's Licences.

Yours faithfully

Licensing Manager

**CARLISLE
CITY COUNCIL**



www.carlisle.gov.uk

Governance Directorate

Director of Governance: M D Lambert LLB (Hons)

Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023
Document Exchange Quote DX 63037 Carlisle Type talk 18001 01228 817000
Council Website www.carlisle.gov.uk

Mr P J Lee

Fenton
Brampton
Cumbria
CA1 1EE

Enquiries to:

Direct Dial:

Fred Watson

01228 817523

3 February 2012

Dear Mr Lee

Philip Lee New Conviction

I have received your disclosure of additional conviction relating to a speeding offence committed on 6th January 2012.

The offence occurred on Stanwix Bank, Carlisle and was dealt with by means of a fixed penalty notice

As there were no passengers in the taxi at the time I intend to deal with this matter by way of a written warning. The incident will be recorded on your file and may be mentioned in any future appearance before the Regulatory Panel.

Yours sincerely

Licensing Manager

Environmental Protection Services

Head of Environmental Protection Services : Richard Speirs MIEH MIOA
Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817346
Document Exchange Quote DX 63037 Carlisle Type talk please ring 0800 95 95 98
Council Website www.carlisle.gov.uk

Mr P J Lee

Fenton
Brampton

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Mr J A Messenger
Mr F Watson
01228 817026

Licensing/FW

15 January 2013

Dear Sir,

My Licensing Officer has informed me that you reported having been issued with a fixed penalty notice on the 16th December 12 for speeding and you received 3 penalty points. On the 6th January 12 you received a similar fixed penalty and points. Both of these offences took place in your taxi.

This Council considers motoring offences, especially speeding, to be a serious matter, especially as in this case you were in a licensed vehicle, although not carrying fare paying passengers.

Because of this conviction I must warn you that should there be any further convictions, or indeed any breaches of the conditions of your Licence, it may be necessary for you to appear before the Licensing Panel where the options available to the members include the revocation or suspension of your Hackney Carriage Driver's Licence.

Yours faithfully

Licensing Manager



Governance Directorate

Director of Governance: M D Lambert LLB (Hons)

Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023
Document Exchange Quote DX 63037 Carlisle Type talk 18001 01228 817000
Council Website www.carlisle.gov.uk

Mr P J Lee
Wigton Road
Carlisle
Cumbria

Enquiries to: Barry Sharrock
Direct Dial: Licensing Officer
licensing@carlisle.gov.uk

7 September 2015

Dear Mr Lee

Speeding Offence

Further to your recent notification of a speeding offence in September 2014, I must remind you that there is an obligation on you to inform the Council, in writing within 7 days, of any conviction, either motoring or criminal.

I have listed below your convictions and history with regard to speeding since you have been licensed to try to reinforce how any further conviction would impact on your licence with this Council

01/11/03	speeding
06/11/03	speeding
21/01/04	appearance before The Regulatory Panel because of the above 2 speeding offences where an official written warning was issued.
24/09/05	speeding
21/10/05	warning letter issued
06/01/12	speeding
03/02/12	warning letter issued
16/12/12	speeding
15/01/13	warning letter issued
26/09/14	speeding
07/09/15	Final Warning Letter Issued

I must warn you therefore that should there be any further convictions, or indeed any breaches of the conditions of your licence, you will have to make a further appearance before the Regulatory Panel where the options open to the members include the revocation or suspension of your Hackney Carriage and/or Private Hire Driver's Licences.

Yours sincerely

Licensing Manager

Frederick Watson

From: | Phill Lee
Sent: 06 October 2017 13:21
To: fred.watson@carlisle.go.uk
Subject: Fwd: Speeding Offence

Get [Outlook for Android](#)

From: Phill Lee
Sent: Tuesday, March 28, 2017 7:46:25 PM
To: licencing@carlisle.gov.uk
Subject: Speeding Offence

Hi

I am contacting this office regarding a speeding offence on the 22/01/2017 at 3.00hrs at Warwick Bridge Eastbound. Automatic camera device at a speed of 37mph.

I have recieved the paperwork and have a £100 fine and fixed penalty.

My details
Mr Phillip Lee
Wigton Road
Carlisle

Hackney Carriage Driver Licence No HD657

Sent from Samsung Mobile on O2



Licence summary

You can share this licence information summary with someone else like your employer or a car hire firm.

Mr PHILLIP JOSEPH LEE

Driving licence number:
XXXXXXXX058PJ9CD

Licence issue number:
30

Licence valid from:
17 May 2014

Licence valid to:
5 September 2023

Check code:

Rw Tn vb Py

- This code
- is case sensitive
 - is valid for 21 days
 - can only be used once

Date summary generated:

24 October 2017 14:36

Driving Status

Current full licence

Endorsements

1

Offences

3

Points

Endorsements

SP30

Penalty points:
3

Offence date:
22 January 2017

Expiry date:
22 January 2020

Description:

Exceeding statutory speed limit on a public road

SP30

Expired

Penalty points:
3










Offence date:
26 September 2014

Expiry date:
26 September 2017



Description:

Exceeding statutory speed limit on a public road

Can drive

Category	Start date	End date	Codes
AM 	6 September 2013	4 October 2028	
A 	19 January 2013	4 October 2028	79
B1 	8 May 1987	4 October 2028	
B 	8 May 1987	4 October 2028	
BE 	8 May 1987	4 October 2028	
C1 	8 May 1987	4 October 2028	
C1E 	8 May 1987	4 October 2028	107
D1 	8 May 1987	4 October 2028	101
D1E 	8 May 1987	4 October 2028	101, 119

Provisionally drive

Category	Start date	End date	Codes
A 	19 September 1978	4 October 2028	
G 	19 September 1978	4 October 2028	
H 	19 September 1978	4 October 2028	

What to do next

How to share your licence summary

Give the check code or this licence summary to someone else, like your employer or a car hire firm. They'll also need the last 8 characters of your driving licence number.

Where to view a shared licence summary

Visit <https://www.gov.uk/check-driving-licence> and enter the last 8 characters of the driving licence number and the check code.

Check code not working?

If the code generated is older than 21 days, or the code has been viewed once before, a new code must be created.





Licence summary

You can share this licence information summary with someone else like your employer or a car hire firm.

Mr PHILLIP JOSEPH LEE

Driving licence number:
XXXXXXXX058PJ9CD

Licence issue number:
30

Licence valid from:
17 May 2014

Licence valid to:
5 September 2023

Check code:

Rw Tn vb Py

- This code
- is case sensitive
 - is valid for 21 days
 - can only be used once

Date summary generated:

24 October 2017 14:36

Driving Status

Current full licence



Endorsements

1

Offences

3

Points

Category	Start date	End date	Codes
F 	8 May 1987	4 October 2028	
K	8 May 1987	4 October 2028	
L	8 May 1987	4 October 2028	
N	8 May 1987	4 October 2028	
P 	8 May 1987	4 October 2028	
Q	6 September 2013	4 October 2028	

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Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

Annotations:

Modifications etc. (not altering text)

- C1** Pt. II(ss. 45–80) modified by [Transport Act 1978 \(c. 55, SIF 126\)](#), **s. 7(3)**
- C2** Pt. II(ss. 45–80) amended by [Public Passenger Vehicles Act 1981 \(c. 14, SIF 107:1\)](#), **s. 79**
- C3** Pt. II(ss. 45–80) applied with modifications by [S.I. 1986/567](#), **regs. 3, 4**
- C4** Pt. II (ss. 45-80) extended (1.4.2000) by [1999 c. 29, s. 255\(1\)\(4\)](#); [S.I. 2000/801](#), art. 2(2)(a), **Sch. Pt. 1**
Pt. II (ss. 45-80) excluded (1.7.2001) by [1981 c. 14, s. 79A\(1\)\(a\)](#) (as inserted (1.7.2001) by [2000 c. 38, s. 265\(2\)](#); [S.I. 2001/1498](#), **art. 3**)

61 Suspension and revocation of drivers' licences.

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
 - (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- (2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the

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licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

- (b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F1}level 1 on the standard scale].

[^{F2}(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

- (2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.]

- (3) Any driver aggrieved by a decision of a district council under [^{F3}subsection (1) of] this section may appeal to a magistrates' court.

Annotations:

Amendments (Textual)

- F1** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F2** [S. 61\(2A\)\(2B\)](#) inserted (16.3.2007) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 52(2)**, 61; [S.I. 2007/466](#), **art. 2**
- F3** Words in [s. 61\(3\)](#) inserted (16.3.2007) by [Road Safety Act 2006 \(c. 49\)](#), **ss. 52(3)**, 61; [S.I. 2007/466](#), **art. 2**

Modifications etc. (not altering text)

- C5** [S. 61](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), **reg. 2(1)**, **Sch. 1** Table B4