

# AGENDA

## Regulatory Panel

**Wednesday, 20 January 2021 AT 16:16**

**This meeting will be a virtual meeting and therefore will not take place in a physical location.**

### **Virtual Meeting - Link to View**

This meeting will be a virtual meeting using Microsoft Teams and therefore will not take place at a physical location following guidelines set out in Section 78 of the Coronavirus Act 2020.

### **Register of Attendance and Declarations of Interest**

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

### **Apologies for Absence**

To receive apologies for absence and notification of substitutions.

### **Public and Press**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

### **Minutes of Previous Meeting**

**5 - 6**

To note that Council, at its meeting on 5 January 2020, received and adopted the minutes of the meeting held on 14 October and 18 November 2020. The Chair will sign the minutes at the first practicable opportunity. [Copy Minutes Minute Book 47(4)]

The Chair will move the minutes of the meeting held on 16 December 2020 as a correct record. The only part of the minutes that may be discussed is their accuracy.  
(Copy minutes herewith).

## **PART A**

**To be considered when the Public and Press are present**

### **A.1 HACKNEY CARRIAGE DRIVER - ENFORCEMENT**

**7 - 20**

The Licensing Manager to submit a report for Members to consider action under the Hackney Carriage and Private Hire Enforcement Policy.  
(Copy Report GD.04/21 herewith)

## **PART B**

**To be considered when the Public and Press are excluded from the meeting**

### **B.1 SUSPENSION OF DOG BREEDING AND DOG BOARDING LICENCES**

- Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.

#### **Members of the Regulatory Panel:**

**Conservative** – Bainbridge, Collier, Meller, Morton (Vice Chair), Nedved, Shepherd, Ellis (sub), Mrs Mallinson (sub), J Mallinson (sub)

**Labour** – Ms Ellis-Williams (Chair), Miss Sherriff, Dr Tickner, Patrick, Miss Whalen, Birks (sub), McNulty (sub),

**Independent** - Tinnion, Paton (sub)

Enquiries, requests for reports, background papers etc to:

Rachel Plant, Democratic Services Officer - [rachel.plant@carlisle.gov.uk](mailto:rachel.plant@carlisle.gov.uk)





**REGULATORY PANEL**

**WEDNESDAY 16 DECEMBER 2020 AT 4.00pm**

**PRESENT:** Councillor Ms Ellis-Williams (Chair), Birks (as substitute for Councillor Miss Whalen), Ellis (as substitute for Councillor Bainbridge), Mallinson J (as substitute for Councillor Collier), Meller, Morton, Nedved, Shepherd and Tinnion.

**OFFICERS:** Assistant Solicitor  
Licensing Manager  
Licensing Officer  
Regulatory Compliance Officer (Apprentice)

**RP.29/20 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Bainbridge, Collier, Patrick, Miss Sherriff, Dr Tickner and Miss Whalen.

**RP.30/20 DECLARATIONS OF INTEREST**

There were no declarations of interest submitted.

**RP.31/20 PUBLIC AND PRESS**

It was agreed that the items of business in Part A be dealt with in public and the items of business in Part B be dealt with when the public and press were excluded.

**RP.32/20 MINUTES OF PREVIOUS MEETING**

**RESOLVED** – That the minutes of the meeting held on 18 November 2020 be agreed as a correct record.

**RP.33/20 PUBLIC AND PRESS**

**RESOLVED** – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraph number (as indicated in brackets against the minute) of Part 1 of Schedule 12A of the 1972 Local Government Act.

**RP.34/20 APPLICATION FOR A NEW PRIVATE HIRE DRIVER**  
(Public and Press excluded by virtue of Paragraph 1)

The Licensing Officer submitted a report (GD.62/20) regarding an application for a Private Hire Driver licence.

The Applicant was in attendance.

The Assistant Solicitor outlined the procedure the Panel would follow. The Applicant confirmed that he had received, read and understood the Licensing Officer's report. The Assistant Solicitor advised the Applicant that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer set out the background to the application and informed the Panel of two offences which had been disclosed in the application, all other requirements had been met by the applicant.

The Licensing Officer responded to the Panel's questions clarifying the financial outcome of the court case.

The Applicant addressed the Panel. He outlined his employment history and the impact Covid-19 had on his income. He clarified the details of the offences and the sentence which he had complied with. He detailed the company that he would work for and the work that he would carry out should he be successful in his application. He asked the Panel to give him an opportunity to work and have an income.

The Applicant responded to questions from the Panel.

The Licensing Officer drew the Panel's attention to the legislation which they must take account of and set out the options for the Panel.

The Applicant added that Covid-19 had impacted the company that he planned to work for and they needed additional drivers, a successful application would support the business.

RESOLVED – The Panel carefully considered and read the evidence in report GD.62/20 and listened carefully to the responses and heard from the Applicant.

The Panel noted that the Applicant had one speeding conviction in addition to the two offences and advised the Applicant that they took speeding convictions very seriously.

The Panel noted that the Applicant had made an application to become a licensed Private Hire Driver with Carlisle City Council. The Applicant's Disclosure and Barring Certificate advised the Council of a conviction from 2017 for 2 offences under the Health and Safety at Work Act 1974. Due to the nature of the offences and the priority of public safety the application had been referred to the Regulatory Panel to consider.

The Panel listened carefully to the Applicant's account of the convictions. The Panel must be satisfied that the Applicant is a fit and proper person to hold a Private Hire Driver's Licence.

The Panel agreed to grant the Private Hire Driver's Licence and are satisfied the Applicant is a fit and proper person to hold this licence.

[The meeting ended at 4.58pm]

# Report to Regulatory Panel

Agenda  
Item:

**A.1**

Meeting Date: 20<sup>th</sup> January 2021  
Portfolio: Finance, Governance and Resources  
Key Decision: No  
Within Policy and Budget Framework: No  
Public / Private: Public

Title: Hackney Carriage Driver - Enforcement  
Report of: Corporate Director of Governance and Regulatory Services  
Report Number: GD.04/21

## Purpose / Summary:

Gary Spedding is a Licensed Private Hire Driver. Information was received from the City Council's Enforcement Team that Mr Spedding committed a number of environmental offences on 18<sup>th</sup> October 2020. This matter is referred to the Regulatory Panel to consider.

## Recommendation:-

To reach a decision from the options available, after hearing the evidence and the response from Mr Spedding in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Enforcement Policy.

## Tracking

Executive:	N/A
Scrutiny:	N/A
Council:	N/A

## 1. BACKGROUND

- 1.1. Carlisle City Council has licensed Mr Spedding as a Private Hire Driver (PD047) since March 2017 (Appendix1) and a Hackney Carriage Driver (HD272) since 2004. (Appendix2)
- 1.2. Mr Spedding currently has no penalty points endorsed on his DVLA driving licence and no penalty points awarded under the Council's Hackney Carriage and Private Hire Enforcement Policy.

## 2. CURRENT COMPLAINT

- 2.1. On 22<sup>nd</sup> October 20 the Licensing Office was made aware Carlisle City Council Civil Enforcement team had carried out enforcement activity on 18<sup>th</sup> October 20 at the Viaduct Car Park Carlisle in relation to littering.in that area. A man had been observed parking his vehicle SG17 NHA on the car park. This person was later identified as Gary Spedding a licensed Hackney & Private Hire driver who was driving his licensed Private Hire vehicle a black V/W Sharran P618.
- 2.2. The actions of Mr Spedding whilst on the car park were recorded by video recording and details are below.

Time on footage	Time (date 18/10/20)	Notes
00:26	09:23	Licensed vehicle SG17 NHA parks up in space at the Upper Viaduct car park. The driver is identified as Gary Spedding
00:39	09:24	Mr Spedding opens his driver door and throws a plastic bottle to the ground
01:45	09:37	Mr Spedding opens his driver side window and throws out a packet/wrapper
02:09	09:38	Mr Spedding throws out several pieces of paper from his driver side window
02:31	9:39	Mr Spedding throws out more paper from his driver side window
04:37	11:04	Mr Spedding appears to urinate beside his vehicle
05:42	11:06	Mr Spedding throws litter from his driver side window and leaves the car park



- 2.3. The Civil Enforcement Team has since issued Mr Spedding three Fixed Penalty Notices for the littering offences
- 2.4. Mr Spedding failed to report these offences to the Licensing Office within the required time period of 7days from receiving the notices which is a breach of condition 16 attached to his Private Hire Driving Licence and paragraph 18 of the Hackney Carriage Driver Code of Conduct which reads:

*The driver who as a result of any Court decision or other administrative or judicial process, is convicted, sentenced or receives any penalty in respect of any offence or other decision of the Court during the currency of this licence, shall within 7 days inform the Council in writing of such decision. Such notification may not be delayed until the next application for renewal of the licence is due.*

- 2.5. A letter was forwarded to him requesting that he attend the Civic Centre for interview in relation to the above. During interview he apologised for his actions on the car park stating that he had not done anything like this before and believed his actions were due to stress of illness within his close family. He also stated that he was unaware of reporting Fixed Penalty notices for such offences to the Licensing Office.

### **3. LEGAL COMMENTS & LEGISLATION**

- 3.1. Sections 51& 59 of the Local Government (Miscellaneous Provisions) Act 1976 provide that a licensing authority shall not grant a Private Hire or Hackney Carriage Driver's Licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence (Appendix 4). Section 61(1)(b) enables the Panel to take action in respect of a Driver in respect of a Driver on the ground for "any other reasonable cause" (Appendix 5).
- 3.2 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]*).

### **4 PENALTY POINTS**

- 4.1 The Council adopted the Hackney Carriage and Private Hire Licensing Enforcement Policy in March 2019. A Penalty Points System has been introduced to work in conjunction with other enforcements options. The purpose of the scheme is to record misdemeanours and to act as a record of drivers, vehicle

proprietors and operator's behaviour and conduct so as to ascertain whether they are a fit and proper person.

- 4.2 Penalty points remain on the licensee's record for two years on a roll forward basis and where 12 or more penalty points have been recorded in any 24 month period the matter will be referred to the Regulatory Panel for consideration on the fitness and propriety of a license holder.
- 4.3 The conduct of Mr Spedding detailed in this report will fall under the misconduct "Unsatisfactory Behaviour or Conduct of a Driver" for which 1 to 12 points can be issued. The policy states that for this misdemeanour, officers can award up to a maximum of 6 points and the Regulatory Panel can award up to 12 points. Mr Spedding also failed to declare the offences in accordance with the Hackney Carriage Driver Code of Conduct and this misconduct attracts 6 penalty points.

## **5 OPTIONS**

- 5.1 It is recommended that after hearing the evidence and any representations from Mr Spedding, members reach a decision in line with the options available.
- Take no action against Mr Spedding
  - To issue Mr Spedding with a letter of warning.
  - To suspend Mr Spedding's Private Hire Driver licence and Hackney Carriage Driver's licence for a period of time.
  - To revoke Mr Spedding's Private Hire Driver licence and Hackney Carriage Driver's licence.
  - Award penalty points to Mr Spedding as per the enforcement policy
  - A combination of the above

**Contact Officer:**            **Nicola.edwards@carlisle.gov.uk**

**Appendices**  
**attached to report:**

1. Private Hire Driver Licence
2. Hackney Driver Licence
3. Sections 51 and 59 Misc. Provisions Act 1976
4. Section 61 (1) (b) Misc. Provisions Act 1976

**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:**

- **Hackney Carriage and Private Hire Enforcement Policy March 2019**
- **Private Hire Driver Conditions of Licence**
- **Hackney Carriage Driver Code of Conduct**

**CORPORATE IMPLICATIONS:**

**LEGAL – contained within report**

**FINANCE – None**

**EQUALITY –** The public sector Equality Duty and Equality Policy has been considered by the service manager in preparing the recommendations

**INFORMATION GOVERNANCE – None**

City of



Carlisle

**Private Hire Driver Licence****PD047**

Licence Holder:

**Gary SPEDDING**

Date of birth

**Licence Validity**Valid from **04 Apr 2019** to **03 Apr 2022****IMPORTANT NOTES**

Carlisle City Council hereby license the person named above to drive licensed private hire vehicles.

**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.

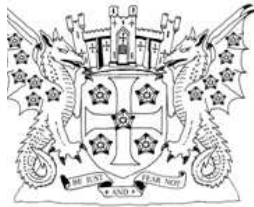
**This licence is not transferable**

**Conditions applicable to this  
licence are attached.**

Licensing Manager

Dated: **04/04/2019**

City of



Carlisle

# Hackney Carriage Driver Licence **HD272**

Licence Holder

**Gary SPEDDING**



Date of birth

Licence Validity

Valid from **04 Apr 2019** to **03 Apr 2022**

## **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: **04 Apr 2019**



# Local Government (Miscellaneous Provisions) Act 1976

## 1976 CHAPTER 57

### PART II

#### HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

##### 51 Licensing of drivers of private hire vehicles.

- (1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

- (a) unless they are satisfied [<sup>F1</sup>—
- (i)] that the applicant is a fit and proper person to hold a driver's licence; [<sup>F2</sup>and
  - (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a private hire vehicle; or]
- (b) [<sup>F3</sup>to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.]

[<sup>F4</sup>(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.]

[<sup>F5</sup>(1A) .....

- [<sup>F6</sup>(1) For the purposes of subsection (1) of this section a person is authorised to drive a motor car if—
- (a) he holds a licence granted under Part III of the Road Traffic Act 1988 (not being a provisional licence) authorising him to drive a motor car, or

---

**Changes to legislation:** There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 51. (See end of Document for details)

---

- (b) he is authorised by virtue of section 99A(1) [<sup>F7</sup>or section 109(1)] of that Act to drive in Great Britain a motor car.]
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- (3) It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely—
- (a) the name of the person to whom it is granted;
  - (b) the date on which and the period for which it is granted; and
  - (c) if the licence has a serial number, that number,
- and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

#### Annotations:

##### Amendments (Textual)

**F1** Words in s. 51(1)(a) renumbered as s. 51(1)(a)(i) (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)

,  
[s. 94\(1\)](#)

,  
**Sch. 5 para. 18(2)(a)**

(with  
[Sch. 5 para. 54](#)  
);  
[S.I. 2016/1037](#)

,  
[reg. 5\(i\)](#)  
(with  
[reg. 6](#)  
)

**F2** S. 51(1)(a)(ii) substituted (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)

,  
[s. 94\(1\)](#)

,  
**Sch. 5 para. 18(2)(b)**

(with  
[Sch. 5 para. 54](#)  
);  
[S.I. 2016/1037](#)

,  
[reg. 5\(i\)](#)  
(with  
[reg. 6](#)  
)

**F3** S. 51(1)(b) substituted (1.1.1997) by  
[S.I. 1996/1974](#)

,  
[reg. 5](#)



# Local Government (Miscellaneous Provisions) Act 1976

## 1976 CHAPTER 57

### PART II

#### HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

##### **59 Qualifications for drivers of hackney carriages.**

(1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—

(a) unless they are satisfied [<sup>F1</sup>—

(i)] that the applicant is a fit and proper person to hold a driver's licence; [<sup>F2</sup>and

(ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a hackney carriage; or]

[<sup>F3</sup>(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.]

[<sup>F4</sup>(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a hackney carriage, a district council must have regard to any guidance issued by the Secretary of State.]

[<sup>F5</sup>(1A) For the purposes of subsection (1) of this section a person is authorised to drive a motor car if—

(a) he holds a licence granted under Part III of the Road Traffic Act 1988 (not being a provisional licence) authorising him to drive a motor car, or

(b) he is authorised by virtue of section 99A(1) [<sup>F6</sup>or section 109(1)] of that Act to drive in Great Britain a motor car.]

[<sup>F7</sup>(1A) .....



---

**Changes to legislation:** There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 59. (See end of Document for details)

---

- (2) Any applicant aggrieved by the refusal of a district council to grant a driver's licence on the ground that he is not a fit and proper person to hold such licence may appeal to a magistrate's court.

#### Annotations:

#### Amendments (Textual)

- F1** Words in s. 59(1)(a) renumbered as s. 59(1)(a)(i) (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)

,  
[s. 94\(1\)](#)

,  
**Sch. 5 para. 23(2)(a)**

(with  
[Sch. 5 para. 54](#)  
);  
[S.I. 2016/1037](#)

,  
[reg. 5\(i\)](#)  
(with  
[reg. 6](#)  
)

- F2** S. 59(1)(a)(ii) substituted (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)

,  
[s. 94\(1\)](#)

,  
**Sch. 5 para. 23(2)(b)**

(with  
[Sch. 5 para. 54](#)  
);  
[S.I. 2016/1037](#)

,  
[reg. 5\(i\)](#)  
(with  
[reg. 6](#)  
)

- F3** S. 59(1)(b) substituted (1.1.1997) by  
[S.I. 1996/1974](#)

,  
[reg. 5](#)

,  
**Sch. 4 para. 2(4)**

- F4** S. 59(1ZA) inserted (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)

,  
[s. 94\(1\)](#)

,  
**Sch. 5 para. 23(3)**

(with  
[Sch. 5 para. 54](#)  
);



# Local Government (Miscellaneous Provisions) Act 1976

## 1976 CHAPTER 57

### PART II

#### HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

#### 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;

[<sup>F1</sup>(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;]or

- (b) any other reasonable cause.

[<sup>F2</sup>(1A) Subsection (1)(aa) does not apply if—

- (a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the driver has been required to pay an immigration penalty—
  - (i) more than three years have elapsed since the date on which the penalty was imposed, and
  - (ii) the amount of the penalty has been paid in full.]

(2) (a)

---

**Changes to legislation:** There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 61. (See end of Document for details)

---

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 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 [<sup>F3</sup>level 1 on the standard scale].

[<sup>F4</sup>(2ZA) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 62A applies (but see subsection (2) of that section).]

[<sup>F5</sup>(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 [<sup>F6</sup>subsection (1) of] this section may appeal to a magistrates' court.

#### Annotations:

#### Amendments (Textual)

- F1** [S. 61\(1\)\(aa\)](#)  
inserted (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)  
,  
[s. 94\(1\)](#)  
,  
**Sch. 5 para. 24(2)**  
(with  
[Sch. 5 para. 55](#)  
);  
[S.I. 2016/1037](#)  
,  
[reg. 5\(i\)](#)  
(with  
[reg. 6](#)  
)
- F2** [S. 61\(1A\)](#)  
inserted (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)  
,  
[s. 94\(1\)](#)  
,  
**Sch. 5 para. 24(3)**  
(with  
[Sch. 5 para. 55](#)

