

CARLISLE CITY COUNCIL

Report to:-

REGULATORY PANEL

Date of Meeting:-

30th May 2012

Agenda Item No:-

Public	Operational	Delegated Yes	
Accompanying Comments and Statements		Required	Included
Cumbria Fire Service		No	No
Cumbria Constabulary		No	No
Environmental Services		No	No
Mr Milne		Yes	Yes
Mr McPake		Yes	Yes

Title:-

TREVOR GEORGE MCPAKE - HACKNEY CARRIAGE DRIVER - COMPLAINT REFUSAL TO TAKE A DISABLED PASSENGER IN A WHEELCHAIR

Report of:-

DIRECTOR OF GOVERNANCE, LICENSING SECTION

Report reference:-

GD 26 /12

Summary:-

A complaint has been received from a member of the public alleging that Mr McPake, the driver of a licensed hackney carriage refused to assist him in his wheelchair, and convey him, his brother and father to Bowness on Solway from the Station rank.

Recommendation:-

To reach a decision from the options available, after assessing the evidence from the witnesses and any response from Mr McPake, taking into account Mr McPake's conduct as a Hackney Carriage Driver and driving history, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

J A Messenger
Licensing Manager

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:- Information from Milne family, Trevor McPake, Bulent Celik, copies of which are attached.

To the Chairman and Members of the Regulatory Panel – 30th May 2012

NAME Trevor George McPake
DATE OF BIRTH 44
ADDRESS Newtown Road, Carlisle

LICENSING HISTORY

1.1 Mr McPake was first granted a Hackney Carriage licence with this council in 1998.

Complaints /Panel referrals after that include:

- 23/06/98 Complaint by member of Public - Manner of driving.
Panel referral, written warning issued
- 13/09/99 Complaint by member of Public - Misuse of vehicle horn late at night.
Panel referral, written warning issued
- 02/11/99 Complaint by member of Public - Manner of driving, accepted complaint.
Written warning issued
- 30/04/01 Complaint by Police – Vehicle defective when inspected by Vehicle Inspectorate & abusive to Police
Panel referral, suspended 4 wks
- 13/08/01 Complaint by member of Public – driving off with member of public's handbag. Disputed by Mr McPake.
Handbag and contents returned, no further action
- 12/11/02 Failing to inform Licensing Office of speeding offence
Written warning issued
- 31/07/03 Complaint by member of Public – Going through red light, accepted complaint.
Verbal warning issued
- 21/01/04 Complaint by member of Public – Conduct towards another road user and abusive language used.
Panel referral, unproven as complainant not able to attend
- 13/04/05 Complaint by member of Public – Use of abusive language – Police involved as there was violence between both parties.
No further action taken
- 13/08/07 Speeding Offence reported – no passengers.
Written warning issued
- 12/05/08 Complaint by member of Public – Abusive language used at Station rank and involvement in a blockage of the station car park, police involved.
Denied by Mr McPake. *Verbal warning issued*
- 01/08/08 Complaint by member of Public – Use of illegal CB equipment contrary to conditions.
Written reminder issued
- 11/09/08 Complaint by member of Public – refusal to take Wheelchair, no ramps, there was a lack of effective communication.
No further action

2 BACKGROUND TO COMPLAINT

On Sunday 4th March 2012, at approx 1.30am. Mr Jonathan Milne (who is a full time wheelchair user) along with his brother (Stephen), father (David) and friend had been waiting at the station rank for the first available wheelchair accessible taxi. It was raining. Mr T McPake came to the top of the rank and Stephen asked if he would take a fare to Bowness on Solway. Mr McPake agreed, but when Stephen asked for the ramps to be laid out for a wheelchair, Mr McPake changed his mind, saying wheelchairs are a hassle and he could do 2 runs in the time it takes to get the ramps in and out. Exchanges were made and Stephen and his father alleged Mr McPake was teasing them. Mr David Milne and Stephen got angry about the situation and abusive language was exchanged, as they were wanting to get Jonathan out of the rain and home as soon as possible. They had to request a fare from the taxi behind, Mr Celik, who then conveyed them home.

3 INVESTIGATION

- 3.1 On 5th March 2012, after we received the complaint by telephone, the owner of the Taxi (Mr Alan McPake) was contacted, to enquire as to who was driving. He confirmed it was Mr Trevor McPake.

A telephone call was made to Mr Celik to confirm what he witnessed.

(Appendix 1)

- 3.2 Letter of complaint received from the Milne family giving full details.

(Appendix 2)

- 3.3 On Friday 23rd March 2012 Mr McPake was interviewed by a Licensing Officer regarding the allegations. He recollected the event and said the family were being abusive to him and he would not take the fare whilst they were being aggressive. He was on the phone the whole time to a fellow colleague David Lahey. Mr McPake said he put his window up and ignored them until his next fare approached. He recognised the family as living in the same village as his girlfriend and sister. He conveyed their elder brother home an hour later at 2.30am to Bowness on Solway.

Mr David Lahey was also spoken to that day to ask if he could hear what had been said whilst he was on the phone to Mr McPake. His recollection was sketchy, but he did recollect part of the exchange.

(Appendix 3)

- 3.4 On Wednesday 28th March 2012 Mr Stephen Milne was interviewed by a Licensing Officer. He confirmed that everything Jonathan had put in his complaint was exactly what happened and as Jonathan was still upset and annoyed about the situation the following day, decided to pursue it further. All the family had signed the letter of complaint as their recollection of the event. Stephen commented that his brother had only started gaining the confidence to go into town but since this incident has not wanted to do so since.

The record of the interview is contained in **Appendix 4.**

4 LEGISLATION

Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976, states that a District Council may suspend or revoke a Hackney Carriage Drivers Licence on a number of grounds.

Section 61 (1)(b) gives the ground of **‘for any other reasonable cause’**
(Appendix 5)

5 RECOMMENDATION

To reach a decision from the options available, after assessing the evidence from the witnesses and any response from Mr McPake, taking into account Mr McPakes conduct as a Hackney Carriage Driver and driving history, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

6 OPTIONS

1. Take no further action
2. Issue him with a verbal or letter of warning.
3. Suspend his Hackney Carriage drivers licence for a period of time.
4. Revoke his Hackney Carriage driver's licence.

Prepared by

S J Stashkiw
Licensing Officer

APPENDIX 1

Complaint No

CARLISLE CITY COUNCIL

COMPLAINT FORM Licensing Section

Full Name of Complainant

Mrs Janice Milne

Address:

Kings Arms, ~~Burgh by Sands~~ *BEWNESS on Seawall*

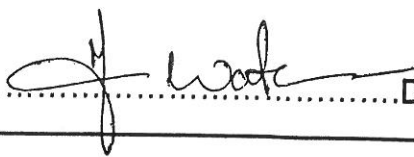
01697351426

Other Complained Driver of H382 (Male called Trevor)

Nature of Complaint:- Refused to convey person in wheelchair

At about 0230hrs Sunday 4th March Mrs Milnes 19yr old son Jonathon who was in a wheelchair approached the taxi rank at the Railway Station. Jonathon was in company of his brother Steven and another male friend. They requested the driver of the first wheelchair taxi in line (H382) to convey them to Burgh by Sands to which he agreed but when they asked him if he was going to place the ramps out in order to get into the taxi he declined. It was raining and the boys believed he just did not want to get out of the cab into the rain. They then moved to the next wheelchair taxi which was driven by Bulent Celik who then loaded the wheelchair into his vehicle and conveyed then to Burgh by Sands.

Signed



Dated

5/3/12

FOR OFFICE USE ONLY

Officer Receiving Complaint: FW

Action taken: H382 is owned by Alan McPake will contact him as to who was

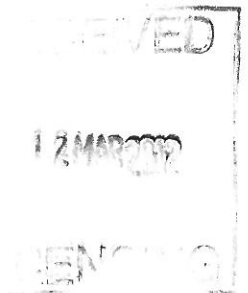
driving vehicle that night. Mr McPake has more than one vehicle. 5/3/12 FW *for 5/3/12*
(BLACK RAB TW 200)

- A. MCPAKE CONTACTED 5/3/12 Trevor McPake was driving *for 5/3/12*
vehicle that night
- Trevor McPake rang licensing office. He was aware of
the complaint and stated the boys had verbally abused
him calling him names and were striking the vehicle with their
fists. Informed him that letter would be sent out to him
informing him to attend Civic Centre once enquiries had
been carried out and not before. *for 5/3/12*

7/3/12 Celik phoned Lic office. On arrival at the
taxi rank he saw the 3 males (one in wheelchair) stating
'take his number' as MCPAKE drove off with
another fare. Celik stated he then conveyed the
3 males to Bawness. They were polite and
were not drunk only unhappy as to what had
happened. Celik was not at the rank when the
males originally spoke to McPake so does not
know what happened. *for 7/3/12*

APPENDIX 2

Kings Arms
Bowness on Solway
Wigton
Cumbria
Tel. 016973 51426



On Saturday March 3rd while on a night out with my friend Michael, brother Stephen and Dad we wanted to go home so we went to the taxi rank at the train station at about 1.30am approx. to get a taxi home to Bowness which is a 15 mile trip. I am a full time wheelchair user, my brother Stephen asked the taxi licence no.H382 if he would take us he said yes. Stephen then asked for the ramps so that we could get me in he then went back on his word saying "I'm not taking you, wheelchair's are a hassle at this time of night I can do 2 runs in the time it takes to get the ramps in and out".

Stephen then said to the driver "come on mate we need the ramps to get my brother in we have been waiting ages and it's raining and it's not his fault he needs the ramps" he still refused. Dad then asked Stephen what's the problem, Stephen said he won't take us. The driver then put his window up and provoked us by saying "if you ask me nicely" and say "pretty please then I'll think about it" I'm not getting wet for you lot.

Dad and Stephen got mad and told him to stay in his cab they told him he was fucking disgusting and a horrible bastard.

We walked down to next taxi licence no HD108 he said he would take us home while we were walking away people in the queue asked us what was going on and we told them they also walked away from the taxi H382.

The taxi HD108 got the ramps out we all got in and then he pushed me up the ramp. The driver of the taxi we got into said the taxi should move off the wide area so that it make's it easier to get ramps out but he did not. We got home about 2.30am approx. Sunday morning.

S. Milne J. Milne

Letter from Jonathan Milne
(wheelchair user) - Son

Stephen Milne - Brother
David Milne - Father

APPENDIX 3

Interview with Trevor McPake Fri 23rd March 2012 12pm.

Others Present: Stephen Matthews, George Corry (who often spoke on his behalf, although not witnesses to the incident)

I asked Trevor if he could remember details of the incident on Sat 3rd March involving a wheelchair passenger that resulted in a complaint.

He said he knew exactly what i was talking about & I asked him to tell me his recollection of the event:

He was sitting at the top of the Station rank in the wheelchair space, it was raining. He was on the phone to a friend and fellow taxi driver, David Lahey. The wheelchair customer & 3 other men where waiting first in the queue and a tall man (think the wheelchair customer's brother) approached his vehicle and asked 'can you take a fucking wheelchair?'

Trevor replied 'stop being aggressive'

The man replied 'if I could get in there I would smash your fucking face in' and he slammed the side of the car/door with his hand.

One of the other men approached and then said 'you want to get off the fucking rank' Trevor confirmed he was on the phone the whole time with his 'ear piece' & put his window up & ignored them.

He said one of them re-approached him and said 'you have just lost yourself a £40 fare you fat bastard'

He said David Lahey could hear it all.

I then read the complaint out to him.

He denied he had said what was quoted.

He confirmed he recognised them as living in Bowness on Solway & running the pub, as his girlfriend also lives in Bowness on Solway and he often stays over, so his taxi is regularly in the village.

He also confirmed that he took one of the wheelchair users other brother home to Bowness at approx 2.30am that same night and he paid him £30 fare.

Trevor then went on to confirm there had been a further incident on Sunday 18th March at the Race-course where he was approached while in his taxi by one of the men. The incident was reported to PC on duty there and the crime ref is NR 1200515
PC 1552 Harding.

Sue Stashkiw.



PTO

Fri 23/3 2.15pm

Chat with David Lahey who confirmed
he heard exchanges whilst on phone to
Trenor...

'Can you take a (f...?) wheelchair?

Trenor saying you should have got the one in
front... I haven't refused to take you but
I'm not taking you with that attitude'

'I'll come in there and kick your fat arse...'

APPENDIX 4

Interview with Stephen Milne Wed 28th March 2012

Stephen confirmed that what was said in his brother's original statement was exactly what happened.

He had been having a night out with his disabled brother (Jonathan), their dad and Jonathan's friend. They had been trying to get a W/C accessible taxi from Cecil St (The Wall) rank that evening, but were unable to do so and advised to go to the station rank.

They had been in the queue. It was raining. They had to let people in front of them to get the white hackney cabs. The first available w/c taxi that came to the front was Plate H382.

Stephen approached the taxi and said 'Taxi to Bowness?' The driver replied 'yes' He then asked if he would put the ramps out for a wheelchair. The driver then went back on his word and said, 'I'm not taking you, its too much hassle at this time of night, I can do 2 runs in the time it takes to get the ramps out'.

After saying it wasn't his brother's fault he needed the ramps, the driver put his window up $\frac{3}{4}$ and provoked them by saying 'if you ask me nicely' and 'say pretty please'...

Stephen does not deny that exchanges got heated, swearing took place and he told him he was an 'arsehole and fucking disgusting'. There was a full rank of people behind him and lots of them were asking what was wrong and agreeing it was disgusting.

The following morning, the family were still extremely upset and angry about the situation and wanted to take the matter further which was why the letter of complaint was sent in. His brother was apologetic for the situation, but as Stephen said he should not have to be sorry for being in a wheelchair. His brother had only started gaining the confidence to go out into town, and mentioned that since this incident, his brother has not been out since. He said it may be coincidence, but doesn't know for sure. His brother has cancer of the spine.

Stephen confirmed that he did not recognise the driver as being a visitor to the village and was surprised that Mt McPake knew the family, as being Publicans of the local pub in Bowness on Solway.

Stephen confirmed he would be available to answer any questions should the matter be taken to the regulatory Panel.

Sue Stashkiw
Licensing Officer



Appendix 4

Appendix 5

PART II, 1976 ACT.

SECTION 61.

SUSPENSION AND REVOCATION OF DRIVERS' LICENCES.

(1) Notwithstanding anything in the **Act of 1847** or in any part of **this Act**, a District Council may suspend or revoke or (on application therefore 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 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 **Level 1** on the standard scale.
- (3) Any driver aggrieved by a decision of a District Council under **this Section** may Appeal to a **Magistrates Court**.

NOTE.

The above section is as amended by the **Criminal Justice Act 1982**.

S61.

Appendix 2