

Report to Regulatory Panel

Agenda
Item:

A.1

Meeting Date: 12th February 2014
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and Budget Framework
Public / Private Public

Title: JASON BARNES - HACKNEY CARRIAGE DRIVER –
COMPLAINT REGARDING USE OF MOBILE PHONE
Report of: GOVERNANCE DIRECTORATE, LICENSING SECTION
Report Number: GD 04/14

Purpose / Summary:

Jason Barnes is a licensed Hackney Carriage Driver with this Council. On the 25th of November 2013 a complaint was received from a member of the Civic Centre staff who had witnessed Mr Barnes using a hand held mobile phone whilst driving his taxi.

Recommendations:

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

Tracking

Executive:	
Overview and Scrutiny:	
Council:	

To the Chairman & Members of the Regulatory Panel on 12th February 2014

NAME Jason Anthony Barnes

ADDRESS Kirkbampton

AGE 42

LICENSING HISTORY

On the 5th of March 2001 Mr Barnes applied for a Private Hire driver's licence. The members refused this application because of his previous criminal convictions for dishonesty.

On the 17th of April 2002 Mr Barnes again applied for a Private Hire driver's licence and this time it was successful. The licence was however issued together with a letter of warning regarding his future conduct. **APPENDIX 1**

Since being licensed the following matters have come to light.

28/09/01 Speeding Fixed Penalty & 3pts

This offence took place on the 13th of July 2001 and he was sentenced on the 19th of October 2001. This offence was not declared to the members of The Licensing Panel when they granted his licence on the 17th of April 2002. See copy of his driving licence at the time **APPENDIX 2** and a copy of his statutory declaration presented to the Licensing Panel **APPENDIX 3**.

01/03/04 Speeding Fixed Penalty & 3pts

11/03/05 Obstruction of a Pedestrian Crossing Fined £120 & 3pts

On the 7th of March 2007 the Council's Access Officer contacted the Licensing Office to make a complaint against Mr Barnes. She claimed she had followed him for some considerable time in slow moving traffic on Dalston Road and that he had been using his mobile phone the whole time. She claimed he had the phone resting between his ear and his shoulder. When interviewed he denied the allegation claiming it was in fact his two-way radio. He also claimed he didn't own a mobile phone on medical advice after suffering an earlier brain haemorrhage.

13/09/13 Failing to conform to a traffic light Fined £200 & 3pts

Mr Barnes appeared before The Regulatory Panel on the 20th November 2013 because of this offence. He informed the members that he refused a fixed penalty ticket and chose to

instead have the matter dealt with at The Magistrates Court where he intended to plead not guilty and produce his passenger as a witness. He claimed he never received the summons and he was found guilty by the Magistrates in his absence. The members decided to take no further action against Mr Barnes as they felt there was some confusion as to whether he had been given the opportunity to appeal the decision.

Since the Panel hearing the Licensing Officer had been in touch with both Carlisle Magistrates Court and the Police CJU at Barrow who issued the paperwork. Both have confirmed that the necessary paperwork was sent to Mr Barnes in the same envelope as the police witness statement, which Mr Barnes has admitted he received. This paperwork was not returned to the issuing office so the case went ahead without him being present. Upon receiving the decision of the Court he should have appealed the decision if he felt he had been unfairly treated.

LATEST COMPLAINT

On the 25th of November 2013 a member of the Council's Chief Executive's Department contacted the Licensing Office to make a complaint against Mr Barnes. He complained that Mr Barnes had turned right from Hartington Street into Victoria Place and had failed to see him turning left into Victoria Place from Chatsworth Square opposite. The vehicles nearly collided and would have done if the complainant hadn't taken evasive action. He claimed that the reason the taxi driver failed to see him was that he was using his mobile phone at the time. He continued to use his phone along Victoria Place, Georgian Way, around Hardwick Circus and onto Castleway. **APPENDIX 4**

When interviewed Mr Barnes at first denied even being in the area at that time. When he was told that we had contacted the owner of the taxi and he had confirmed that he was, Mr Barnes remembered he had been to Trinity School. He denied there had been any sort of road incident or that he had been using a mobile phone. Mr Barnes was told that if we couldn't sort the complaint out between us it would have to be referred to The Regulatory Panel. The discussion then ended without being resolved.

LEGISLATION

Section 61 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1976

APPENDIX 5

OPTIONS

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

- To take no further action
- To issue a warning letter

- To suspend Mr Barnes' Hackney Carriage Drivers Licence for a period of time.
- As well as or instead of the above, require him to sit and pass a Driving Standards Agency 'Taxi' Test
- To revoke his Hackney Carriage Drivers Licence

Contact Officer: **Mr B Sharrock** **Ext: 7027**

Appendices **1 – Warning letter on grant of licence**
attached to report: **2 – DVLA Driving Licence**
 3 – Statutory Declaration Presented To The Panel 17/04/02
 4-- Written Complaint
 5 -- Legislation

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's -	n/a
Community Engagement –	n/a
Economic Development –	n/a
Governance –	included within the report
Local Environment –	n/a
Resources -	n/a

APPENDIX 1

City Solicitor and Secretary

City Solicitor and Secretary : J M Egan LL B
Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 8187048
Document Exchange Quote DX 63037 Carlisle. Type talk please ring 0800 95 95 98

Mr J Barnes

Morton
Carlisle

Please ask for:

Mr J A Messenger

Mr B Sharrock

01228 817026

Direct Line:

E-mail:

Jimm@carlisle-city.gov.uk

Your ref:

Our ref:

Licensing/JAM

26 April 2002

Dear Sir

Re: Application for licence to drive Private Hire Vehicles

I refer to your application to the Licensing & Regulatory Panel on 17th April 2002 for a licence to drive Private Hire vehicles.

The panel:

RESOLVED – That, having given detailed consideration to all evidence presented, JB's application for a Private Hire Driver's Licence be granted, once he had fulfilled any additional application criteria, with a warning as to future conduct.

I must therefore warn you that although you have been granted a licence, should you receive any further convictions or be in breach of the conditions of your licence, you may be required to appear before the Licensing & Regulatory Panel where your licence may be suspended or revoked.

Once you have passed the DSA 'Taxi' test and local knowledge test, my Licensing Officer will issue you with your Private Hire drivers licence.

Yours faithfully

City Solicitor and Secretary

Keep this safe

APPENDIX 2

Counterpart Driving Licence

6397878

D740



Important Document - The photocard and paper counterpart together make up the complete driving licence and should be kept together. Both must be produced when required.

ASON ANTHONY BARNES
WINSKALE WAY
CARLISLE

25611



0580705308

Driver number

Issue number

26A

Provisional Entitlement (see leaflet INS 57P for category details)

Category	From	Until	Codes
A	17 06 88	28 01 41	
GH	17 06 88	28 01 41	

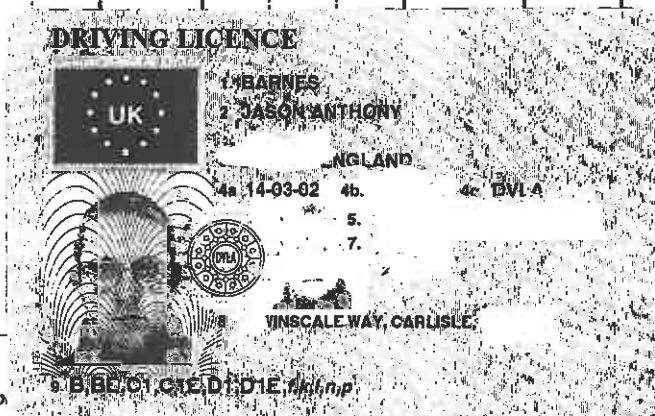
Category	From	Until	Codes

Entitlement History (see Section 3 overleaf)

Category	From	Codes

Endorsements (as supplied by convicting Court) See leaflet INS 57P for offence codes

Convicting Court code	Date of conviction			Offence code	Date of offence			Fine £	Disqual. period	Other	Penalty points
	Day	Month	Year		Day	Month	Year				
1322	28	09	01	SP30	13	07	01	60.00			03
1322	SENTENCED	19	10	01							



NOTE: < means "earlier than"

You may only drive the above if you hold current entitlement for a higher category.

Official Use

Changes to your p

ERS IN BLACK INK. (See Section 5 overleaf)

New house No.

New Post Code

New address

This document must not be used for change of name. For change of name please refer to the D750, which can be obtained from most post offices.

Send the completed form with your photocard licence to DVLA, Swansea, SA99 1BN

Sign in the white box to confirm changes

Date _____

6397878

APPENDIX 3

Form D

STATUTORY DECLARATION

(See Form C for explanatory notes)

I ^{Anthony} Jason / Barnes of Winscale Wain, Morton West, Carlisle

Date of Birth

DO SOLEMNLY DECLARE as follows:

1. 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.
2. ~~I have never been convicted of any offence~~
OR
3. I have been convicted of an offence or offences and I list below within the terms of the Rehabilitation of Offenders Act, 1974, 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
	14/6/99 3/8/99.	Receiving stolen goods Theft-	Carlisle Carlisle Magistrates Court	Probation 1 year C.S. 150 hours.

I have not been convicted of any other offence except as set out above (apart from any undisclosed convictions regarded as 'spent' under the Rehabilitation of Offenders Act 1974) 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 15, FISHER STREET, CARLISLE

This 26th day MARCH 2002

Signature of applicant

In the County of CUMBRIA

Before me [Signature] (P.D. [Signature])
Solicitor/Commissioner for Oaths

Office Address 15, FISHER STREET, CARLISLE

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.

Springfield Road
Carlisle

The Licensing Manager
Governance Directorate
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG

25 November 2013

Dear Sir,

I would like to bring to your attention the actions and behaviour of a taxi driver at 9:20 this morning in Carlisle. The taxi being driven was a Ford Mondeo PY10 DYA.

The taxi was turning right from Hartington Street on to Victoria Place and was unaware of me turning left from Chatsworth Square (see map overleaf). He nearly collided into the side of my car and would have done so if I had not taken evasive action. I could clearly see that the driver was in conversation on a mobile phone held up against his left ear.

At the top of Victoria Place the taxi turned right on to Georgian Way and then left at Hardwicke Circus on to Castle Way. At this point the driver was still on his mobile phone.

Let me know if you need any further info. I feel it was totally irresponsible of the taxi driver. There were also a number of students on foot heading towards the college he could have easily collided with.

Yours Sincerely



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

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government (Miscellaneous Provisions) Act 1976. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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