

AGENDA

Regulatory Panel

Wednesday, 07 August 2013 AT 14:00

In the Flensburg Room, Civic Centre, Carlisle, CA3 8QG

Apologies for Absence

To receive apologies for absence and notification of substitutions.

Declarations of Interest

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.

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 Meetings

To agree the minutes of the meeting held on 17 April 2013 and 29 May 2013.

[Copy Minutes in Minute Book 40(1)].

PART A

To be considered when the Public and Press are present

A.1 DISCLOSURE OF ADDITIONAL CONVICTION - DRIVING WITHOUT DUE CARE AND ATTENTION

3 - 14

The Licensing Manager to submit a report regarding a Hackney Carriage Driver who had disclosed an additional conviction.
(Copy Report GD.38/13 herewith)

PART B

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

- NIL -

Members of Regulatory Panel

Conservative: Craig, Layden, Morton, Mrs Parsons, Mrs Vasey, Bowman S (sub), Collier (sub), Nedved(sub).

Labour: Bell (Chairman), Cape, Ms Franklin(Vice Chairman), Scarborough, Mrs Stevenson, Mrs Warwick, Forrester (sub), Stothard(sub), Wilson(sub)

Liberal Democrat: Allison, Mrs Luckley(sub)

Enquiries to Committee Clerk: Rachel Rooney (01228 817039)

Report to Regulatory Panel

Agenda
Item:

A.1

Meeting Date: 7th August 2013
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and
Budget Framework NO
Public / Private Public

Title: DISCLOSURE OF ADDITIONAL CONVICTION - DRIVING
WITHOUT DUE CARE AND ATTENTION - MICHAEL DONNELLY
Report of: Director of Governance
Report Number: GD.38/13

Purpose / Summary:

Michael Donnelly has been a Licence Hackney Carriage Driver with this Council since November 2008. He reported to us on 19th June 2013 that he received a conviction of 'Driving without due care and attention' by the Court on 17th June 2013. The incident happened on 11th April 2013.

Recommendations:

To reach a decision from the options available, after hearing evidence and the response from Mr Donnelly 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 the 7th August 2013

NAME Michael Donnelly

ADDRESS Parkside, Carlisle

AGE 49

LICENSING HISTORY

Mr Donnelly was first licensed as a Hackney Carriage Driver on 25th November 2008. He completed all of the application criteria at the time, including taking the Driving Standards Agency 'Taxi test' on 18th November 2008. At that time the following motoring convictions were declared and he had 3 points valid on his driving licence:

25/08/00 No Vehicle Insurance. Fined £240 & 7 Points.

27/06/03 Speeding. Fined £60 & 3 Points.

04/03/06 Speeding. Fixed Penalty & 3 Points.

The offence of no insurance in 2000 related to his private car.

The 2 offences of speeding took place during his employment as a lorry driver.

24/04/09 Speeding. Fixed Penalty & 3 Points. Carrying a fare paying passenger @ 44mph in 30mph zone.

Referred to Regulatory Panel 01/07/09 – Warning letter issued

(Appendix A)

LATEST CONVICTION

Mr Donnelly has reported that on 11th April 2013 he was involved in an incident when he accidentally knocked down a member of the public whilst reversing out of Greystone Road Community Centre. **(Appendix B)**

Mr Donnelly was interviewed by Licensing Officer on 24/04/13 **(see Appendix C & D)**

On 17th June 2013 he pleaded guilty to 'Driving without due care and attention' at Court and received £120 fine & 4 points. (CD10 offence)

DRIVING LICENCE

Apart from this latest conviction Mr Donnelly's driving licence has no further endorsements **(Appendix E)**

LEGISLATION

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

Section 61 (1) (b) gives the grounds of "any other reasonable cause" (**Appendix F**).

OPTIONS

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

- 1 To take no further action.
- 2 To issue him with a letter of warning.
- 3 To suspend his Hackney Carriage Driver's Licence for a period of time.
- 4 To revoke his Hackney Carriage drivers Licence.
- 5 As well as or instead of the above, to require him to sit and pass a Driving Standards Agency Taxi Driving Test.

Contact Officer: Sue Stashkiw Ext: 7029

**Appendices
attached to report:**

- A – Warning letter 22/09/09**
- B - Disclosure 19/06/13**
- C – Email 17/04/13**
- D – Interview notes 24/04/13**
- E – Copy Driving Licence**
- F - Legislation**

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:

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's – N/A

Community Engagement – N/A

Economic Development – N/A

Governance – Included within report

Local Environment – N/A

Resources – N/A

**CARLISLE
CITY COUNCIL**



www.carlisle.gov.uk

APPENDIX A Legal & Democratic Services

Director of Legal & Democratic Services: J M Egan LLB
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 M Donnelly
Parkside
Carlisle
Cumbria

Enquiries to: Licensing Officer
Direct Dial: 01228 817523
Date: 22 September 2009

Dear Mr Donnelly

Regulatory Panel Decision

I write to confirm the decision of the Licensing Panel which was held on the 1st July 2009 in The Civic Centre, Carlisle.

The decision was that you be warned as to your future conduct as a Hackney Carriage driver.

I must warn you therefore that should there be any further offences, or indeed any other matters regarding the breach of the conditions or byelaws attached to your Hackney Carriage Drivers Licence, it may be necessary for you to appear before the Licensing Panel again where your licence could be either suspended or revoked.

Yours sincerely

APPENDIX B

90

Form I

CARLISLE CITY COUNCIL

DISCLOSURE OF ADDITIONAL CONVICTION

I MICHAEL DONNELLY

of PARKSIDE CARLISLE

Date of Birth

being a licensed Hackney Carriage/Private Hire Driver with Carlisle City Council, have been convicted of an additional offence or offences that I have not previously declared to the Council. This/these offences are disclosed below. This List includes any penalty imposed upon me other than by a Court but as a result of any legal process. I understand that under the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, ALL convictions must be disclosed upon renewal.

Date of Offence	Date of Conviction	Offence	Court at which convicted	Sentence or Order of the Court or Fixed Penalty Notice
11-4-13	17-6-13	CD 10	CARLISLE	4 PENALTY POINTS

Circumstances

AS PER PREVIOUS STATEMENT

I agree that this conviction and/or penalty and my history as a licensed driver may be disclosed at the public hearing of Carlisle City Council Regulatory Panel, or any subsequent hearing held in any Court or Tribunal

Signature of Licence Holder

19-6-13
Date

Jim Messenger

APPENDIX C

File 90

From: Susan Stashkiw
Sent: 17 April 2013 17:41
To: Barry Sharrock
Cc: Wilkinson, Tricia; Frederick Watson; Jim Messenger
Subject: RE: Incident at Greystone Community Centre

Barry,

I went up to Police HQ this morning & viewed the CCTV. It shows the driver (Michael Donnelly - HD112) reversing out of the Car Park entrance on thurs 11.4.13 at 15.55 onto the busy Greystone Rd, when he could have turned in the car park to drive out of the entrance.

He had an elderly lady passenger in the back when he reversed into one of two ladies who were walking out of the car park. Due to the impact, she fell to the ground. He got out of his vehicle, police were called & the lady taken to hospital.

I have seen pictures of her injuries, which include a broken ankle, badly bruised & cut face, as well as badly bruised knees. Photos were taken today, 17.4.13. She is 80 yrs old, so I expect the ordeal to be very distressing for her & the healing process to be lengthy.

He is being interviewed by the Police on Friday, 19.4.13, where they think they will charge him with driving without due care & attention, so I will await their report & then have him in next week to assess the situation.

Both Jim & I are of the opinion (as well as the Police) that it appears to be a very unfortunate accident, with a lapse in his concentration & a very poor decision to reverse out onto a busy road, as well as his reversing speed when he hit the lady.

Unless there are other issues that we think pose a risk to public safety, we would not suspend him, but await the police conclusion, then refer him to the Panel.

I will keep you all in the loop once I know more.

Sue

From: Barry Sharrock
Sent: 15 April 2013 14:59
To: Susan Stashkiw; Frederick Watson; Jim Messenger
Subject: Incident at Greystone Community Centre

Tricia at CCC has heard about a taxi driver who reversed dangerously in the carpark of Greystone Community Centre and hit an 80 year old lady. Checked with Gareth Weber at Greystone and he said it is all on CCTV. Happened last Thursday afternoon and the driver deserves to be prosecuted. He has no details but PC 2204 Gremell is dealing with it. I have left a message for her to contact this office on her return to duty on Wed. Please keep Tricia in the loop.

Barry Sharrock

Licensing Officer
Carlisle City Council

APPENDIX D

Notes of meeting with Mr Michael Donnelly – Wednesday 24/04/13

Mr Donnelly attended the Contact Centre to explain the accident he was involved in on Thursday 11th April 2013.

He explained that he was called to collect a fare at Greystone Rd Community Centre at around 3.45pm that day.

He drove straight into the Car Park & pulled up to the front doors. The lady got into the back of his vehicle. As he was reversing out of the car park onto the main road, he felt a bump and someone hitting his car. It was only at that point did he realise he had knocked a lady over from the rear of his vehicle.

He had thought it was clear to reverse, but accepts it may have been a lapse in his concentration, or that the lady had walked behind his vehicle after he had checked it was clear.

He immediately called emergency services for assistance and the lady was taken by ambulance to hospital. He also reported this to his Operator, Radio Taxis.

He was in shock after the incident and did not drive that weekend. He was very concerned for the lady and her recovery.

He was worried about his licence and said he would keep us informed with the Police action to be taken.

As the interview came to a close, I felt it was not appropriate to suspend him from driving, as it appears to be an isolated incident and not as a result of Mr Donnelly having any other issues.

S. Stashkiw 24/04/13



Counterpart Driving Licence

Important Document - The photocard and paper counterpart should be kept together. Both must be produced when required.

APPENDIX E

106915002 / 1538

MICHAEL DONNELLY
PARKSIDE
ST ANNS
CARLISLE

61500



101791491733

Driver number

Issue number

Provisional Entitlement (see booklet INS57P for category details)

Category	From	Until	Codes
A	31 10 80	30 10 33	
GH	31 10 80	30 10 33	

Category	From	Until	Codes

Entitlement History (see Section 3 overleaf)

Category	From	Codes

NOTE: < means "earlier than"

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

Official Use

Endorsements (as supplied by Convicting Court) See booklet INS57P for offence codes

Convicting Court code	Date of conviction Day Month Year	Offence code	Date of offence Day Month Year	Fine £	Disqual. period	Other	Penalty points
2012 FIXED PENALTY	17 06 13	SP30	24 04 09	120			03
	17 06 13	CD10	11 04 13	120			04

Changes to your permanent address, please write clearly in the boxes using CAPITAL LETTERS 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 fill in and send us a 'Application for a driving licence' (D1) form, which is available to order from www.direct.gov.uk/motoringforms and to pick up at Post Office branches. Send the filled-in form with your photocard and counterpart licence to DVLA, Swansea, SA99 1BN

Sign in the white box to confirm changes

Date

An executive agency of the
Department for
Transport

H 2369150

50176 / 106915002 / 1538

APPENDIX F

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)



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; 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 [^{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.

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.

Changes and effects yet to be applied to :

- s. 61 modified by S.I. 2009/2863 reg. 4 Table

Commencement Orders yet to be applied to the Local Government (Miscellaneous Provisions) Act 1976:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2007/466 art. 2(b) commences (2006 c. 49)
- S.I. 2007/1897 art. 2 commences (2005 c. 9)
- S.I. 2009/3318 art. 2-4 commences (2009 c. 20)
- S.I. 2011/2329 art. 3 commences (2011 c. 5)
- S.I. 2011/3019 art. 3 Sch. 1 commences (2011 c. 13)

