

CARLISLE CITY COUNCIL

Report to:- **REGULATORY PANEL**

Date of Meeting:- **9th February 2011**

Agenda Item No:-

Public	Operational	Delegated Yes	
Accompanying Comments and Statements		Required	Included
Title:-	HACKNEY CARRIAGE POLICY		
Report of:-	ASSISTANT DIRECTOR - GOVERNANCE		
Report reference:-	GD 13/11		

Summary:-

On 10th November 1997, the Council's Licensing Panel adopted a set of criteria for vehicles to meet, should the licence holder apply for an extension beyond the Council's age limit for Hackney Carriage and Private Hire vehicles.

Mr David Carlile has a Hackney Carriage that is over the age limit and has been allowed a number of extensions over a period of years. The vehicle is now in such a condition that the licensing officers do not consider that it reaches the criteria set by the Council. Mr Carlile disagrees with this decision and wishes to appear before the Regulatory Panel to outline his reasons.

Recommendation:-

After considering this report and any representations made by Mr Carlile, Members are asked to consider the following options:

- a) Take no action
- b) Suspend the Hackney Carriage licence
- c) Revoke the Hackney Carriage licence

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:- Local Government (Miscellaneous Provisions) Act 1976.

To the Members of the Regulatory Panel 9th February 2011

1 Background

- 1.1 On 10th November 1997, the Council's Licensing Panel adopted a set of criteria for licensed vehicles to meet, should the licence holder apply for an extension beyond the Council's age limit for hackney carriage and private hire vehicles **(Appendix A)**.
- 1.2 This procedure is well known to proprietors and has caused little problem over the last 13 years. In practice, when a wheelchair accessible hackney carriage approaches its age limit of 10 years of age, a licensing officer will meet with the proprietor to discuss the future of the vehicle. If the driver elects to retain the vehicle it would be subject to 6 monthly bodywork and interior inspections, these being in addition to the four monthly mechanical tests at the garage. If the vehicle remains in exceptional condition as outlined in the criteria **(Appendix A)**, it is allowed to continue to be licensed.

2 Current vehicle

- 2.1 The vehicle subject of this report is described as follows:

Make: Metrocab
Registration Number: H273 DGB
Proprietor: David Carlile, Hopesyke Wood, Longtown
Licence Plate Number: H166
Registration date: 24 June 1991

The vehicle was first acquired and licensed by Mr Carlile on 17th August 2004

- 2.1 Being over 10 years of age it was subject to four monthly mechanical inspections at the garage and 6 monthly visual inspections by the licensing officer.
- 2.2 A brief history of the tests/inspections over the last few years is as follows:
- | | | |
|----------|--------------|--|
| 20.12.06 | Vehicle test | Rear seats dirty
Light defective
Mirror insecure
Front lower suspension |
| 29.03.07 | Vehicle test | Rear indicator
Track rod end |
| 31.07.07 | Vehicle test | Steering ?? loose on hub
Hand brake clevis worn |
| 29.11.07 | Vehicle test | OK |
| 26.03.08 | Vehicle test | Brake pipe worn
Clevis pin worn
Rear spring eye bush |
| 30.07.08 | Vehicle test | OK |
| 16.09.08 | Inspection | Front nearside bodywork repair needs buffing up |
| 27.11.08 | Vehicle test | Windscreen cracked
Indicator light out
Power steering box leak |

		Lower suspension bush
		Brake pipe leaking
		Exhaust fouling hand brake cable
		Tyre wear on both n/s tyres
		Corrosion on brake pipes
		Letter sent (Appendix B)
April to August 2008 (approx)		off road for repairs
12.06.09	Vehicle test	Steering box leaking
		Engine oil leak
		Rear fuel pipes insecure
		Power steering malfunctioning
		Both sills damaged
		Bodywork issues
June to July 2009 (approx)		off road for repairs
18.01.10	Vehicle test	Wear lower suspension bush
12.02.10	Inspection	Bodywork blemishes and cracked paint
		Interior untidy and worn rear seat
21.05.10	Vehicle test	Bumper loose
		Bodywork issues
09.09.10	Inspection	Bodywork and interior issues
		(Appendix C)
12.10.10	Vehicle test	Meter problems
		(Garage aware of bodywork issues)

Following the vehicle inspection on 9 September 2010, the licensing officer was so concerned regarding the condition of the vehicle that he requested the licensing manager to give a second opinion. Without seeing the officer's inspection results, the licensing manager carried out an inspection and formed the opinion that the vehicle did not and probably never would, reach the criteria required by the licensing authority.

He discussed his findings with Mr Carlile who stated that he intended to get another vehicle but could not afford to for a few months. The licensing manager outlined his concerns to Mr Carlile and agreed to grant an extension for a further three months to enable Mr Carlile to change the vehicle. A letter was sent to Mr Carlile confirming this and that the extension was granted until 31st January 2011 **(Appendix D)**.

On 4 January 2011 a further letter was sent to Mr Carlile reminding him that a replacement vehicle could be transferred to this licence before 31st January 2011 **(Appendix E)**. No response was received.

On 31st January 2011 Mr Carlile came to see Mr Messenger. He had not changed his vehicle, nor had he carried out any bodywork repairs. He said that he hadn't carried out any repairs, but if he did carry out the repairs listed in the letter of 9 September 2010, would the licence be extended. The manager could not answer this question without seeing the standard of these repairs and stated that he had already had every opportunity to have them completed. The licence would not be extended further. The options open to Mr Carlile were discussed, one of which was to appear before the Regulatory Panel where he could give his reasons why the Council should depart from their criteria. It was agreed that this issue would be referred to the Panel on 9th February.

At 4.30pm the same day Mr Carlile attended the Civic Centre where he stated that he had sought legal advice and he was appealing against the decision. The manager explained that the final decision was with the Regulatory Panel and he may have pre-empted the appeal process. Mr Carlile said that he wanted to be able to use his hackney until the Regulatory Panel decision. After obtaining legal advice, coupled with the fact that there were no public safety implications at that time, Mr Carlile was allowed to continue to use his hackney pending the decision of the Regulatory Panel. A letter was sent to him stating this fact **(Appendix F)**.

Mr Carlile handed a letter to the licensing manager explaining why he did not agree with the decision that the vehicle did not fulfil the Council criteria **(Appendix G)**.

3 Legislation (Appendix H)

3.1 Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 states that:

‘A district council may suspend or revoke, or refuse to renew a vehicle licence on any of the following grounds:-

- a) That the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- b) Any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- c) Any other reasonable cause.

4. Options

After considering this report and any representations made by Mr Carlile, Members are asked to consider the following options:

- d) Take no action
- e) Suspend the Hackney Carriage licence
- f) Revoke the Hackney Carriage licence

Prepared by:
J A Messenger
Licensing Manager



EXTRACT from the Minutes of the
proceedings of the Regulatory
Panel
Held on the 10 November 1997

LP.122/97 *AGE POLICY FOR HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES

The Town Clerk and Chief Executive submitted a Report indicating that, in common with many other Local Authorities, the City Council operated an age policy in respect of Hackney Carriages and Private Hire Vehicles. Because the policy cannot be deemed to be totally inflexible it contains the wording "save in exceptional circumstances."

Following a recent Crown Court decision (Derwentside D.C. v Welsh, 1996), the Town Clerk and Chief Executive considered that it would be advisable for the City Council to adopt a set of criteria for determining whether a vehicle could be classed as being in exceptional condition. The Town Clerk and Chief Executive submitted his recommendations.

RESOLVED - That the Town Clerk and Chief Executive's recommendations be approved and it be agreed that a vehicle must meet the following criteria before it can be considered as being in exceptional condition :

- (1) The bodywork is in near perfect condition with no dents, damage or corrosion.
- (2) The paintwork is unblemished and is a good overall colour match.
- (3) The interior and exterior trim is complete.
- (4) The seats, carpets and upholstery linings are clean and in near perfect condition with no holes, tears or significant signs of wear.
- (5) The boot or luggage compartment is clean and uncluttered.

Truly Extracted this 15th day of February 2011

Signed: Mark Haber

'APP B'

**CARLISLE
CITY COUNCIL**



www.carlisle.gov.uk

Legal & Democratic Services

Director of Legal & Democratic Services: J M Egan LLB
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Council Website www.carlisle.gov.uk

Mr D Carlile
Hopsyke Wood
Longtown
Carlisle
Cumbria

Please ask for: Licensing Officer
Direct Line: 01228 817523
E-mail: licensing@carlisle.gov.uk
Your Ref:
Our Ref:

10 December 2008

Dear Mr Carlile

Poorly prepared vehicle and meter check

On the 27th November 2008 your Hackney Carriage H273 DGB underwent its periodic safety check at the Council garage. The inspection revealed, amongst other items, faults with the vehicle's lights, windscreen, steering, suspension, brakes and tyres.

These are faults which should have been picked up during any pre-test check undertaken by yourself or your garage. I must remind you that the Council test must not be used simply as a means of identifying faults. The vehicle must be presented in a condition in which all obvious mechanical and bodywork repairs have been rectified.

This letter will be retained on file and may be mentioned in any future appearance before the Regulatory Panel.

I also note that the meter was incorrectly calibrated and you were given 2 weeks to rectify this. This should have been done by now and I would ask that you bring the taxi to the Civic Centre within 2 working days to have the meter checked.

Yours sincerely,

Licensing Manager



INVESTOR IN PEOPLE

VEHICLE AGE LIMIT EXTENSION

REG NO	REG DATE	MODEL	PLATE
H273 DGB		MEMO CATS	H166
INSPECTION DATE	INSPECTED BY	OWNER	
9/9/10	(JM/BS/FW)	CARLISLE	

BODYWORK Had paint blemishes around most of bodywork
can see where previous work carried out

PAINTWORK As above Cracking + blemishes in numerous areas of vehicle

PLATE CONDITION Good

TRIM worn but clean

DOOR SIGNS N/A

ROOF SIGN OK

FOR HIRE SIGN OK

CARPETS Floor relatively clean worn

ROOF LININGS New

DOOR TRIM clean but worn

SEATS Holes + tears in rear seat seat cover Rear bench seat

BOOT OK but full of tools + tool boxes etc.
Rear bumper concaved along full length

MILEAGE

OTHER Plate removed. Intended to have rear seat repaired and bring back to civic Centre
Intended vehicle must be surrendered Jan 31ST 11
MR Carlisle agreed.



Mr D Carlile
Hopesyke Wood
Longtown
Carlisle
Cumbria

Enquiries to: Licensing Officer
Direct Dial: 01228 817523

9 September 2010

Dear Mr Carlile

Hackney Carriage H166 Reg. No. H273 DGB

I refer to your attendance at the Civic Centre today when your hackney carriage was inspected under the Council's criteria for wheelchair accessible vehicles over 10 years of age.

You are aware of the criteria which has been outlined to you in the six monthly inspection letters over the last few years. This criteria was again reinforced in our most recent letter of 3 August 2010.

The general condition of the vehicle has been deteriorating over the years and it has now come to the situation where it does not fulfil the Council criteria. In particular the following areas were noted:

- A number of undulations in the bodywork where previous repairs have been carried out.
- Although the overall paintwork was shiny and in reasonable condition, the underlying fibreglass bodywork was degrading over the whole body of the vehicle resulting in a poor finish.
- Paintwork cracking and blemishes in numerous places.
- Rear bumper corroded along the whole length.
- Although the doors closed and appeared to be secure, there were gaps which detracted from the overall appearance.
- The rear bench seat had a large tear and showed significant signs of wear.

In view of the above the vehicle failed the inspection and I cannot see that the bodywork especially could ever reach the standard required.

I discussed the result of the inspection with you in detail. In view of the circumstances and the fact that these are not public safety issues, I am prepared to grant a final extension until 31st January 2011 on the proviso that the seat is repaired or fitted with a robust cover and the condition of the vehicle does not deteriorate any further. The vehicle must also pass its periodic mechanical inspection at Bousteads Grassing.

Please make a further appointment for the repaired rear seat to be inspected.

Yours sincerely

Licensing Manager



Assistant Director (Governance): M D Lambert LLB (Hons)

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Mr D Carlile
Hopsyke Wood
Longtown
Carlisle
Cumbria

Enquiries to: Licensing Officer
Direct Dial: 01228 817523

31 January 2011

Dear Mr Carlile

I refer to our conversation today regarding your hackney carriage.

As you are aware, your vehicle does not come up to the bodywork standard required by the Council and this was confirmed to you by letter in September last year. At that time you gave an assurance that you were looking to change your vehicle to one that does reach the criteria. On this basis I made a decision to extend the life of your vehicle for a further three months to 31st January 2011, to give you the opportunity to buy a newer hackney carriage.

On 31st January 2011 you came to see me to say that you had not purchased a new vehicle, but if you did carry out all of the repair work listed, would I allow the vehicle to continue to be licensed. My first question was why had you waited for three months and left it until the final day before coming to see me. You confirmed that you had not carried out any of the repairs mentioned in my letter. I informed you that I could not make a decision without seeing the result of the bodywork repairs. We discussed your options, one of which was to appear before the Regulatory Panel as it was their bodywork criteria that your vehicle did not fulfil. You agreed that you would come to the Panel and I told you that if you wished you could bring someone to speak on your behalf.

At 4.30pm the same day you handed me a compliment slip from North Cumbria Courts Service, stating that you had given notice of appeal against the decision following legal advice. I asked for the name of your solicitor in order that I could discuss the legalities of this, as technically the final decision would be made by Regulatory Panel on 9th February. You refused to give me the name of your solicitor or even to ask him to contact me to discuss this.

I have sought legal advice and contacted the Courts Service. In view of the fact that you have lodged an appeal and there are no public safety implications, you may continue to use the vehicle until the Regulatory Panel on 9th February. You will have the opportunity to ask the Panel to determine whether it fulfils their criteria and make a decision on whether it will continue to be licensed. A copy of the report will be forwarded to you in the next couple of days.

If you have any queries please contact the licensing office.

'APP G'

Mr. D Carlile
Hopsyke Wood
Longtown
Carlisle
Cumbria

Mr. B. Sharrock
Licensing Officer
Carlisle City Council

25 January 2011

Dear Sir

With regards to your letter dated 4 January 2011 it is obvious that I do not agree with your decision and would be grateful if you could supply me with details of the appeals procedure.

As I understand it the criteria does not allow you to pre-judge a six monthly inspection and I would like to answer some of the points that have been raised:-

- (1) The undulations in the bodywork are part of the manufacturing design.
- (2) In my opinion there is no degradation in the fibreglass bodywork.
- (3) In my opinion the paintwork is in reasonable condition and if deemed necessary I will arrange to have it resprayed.
- (4) The rear bumper was not corroded along the whole length there were only small patches which were dealt with.
- (5) When the doors are closed they are secure otherwise it would not have passed the test at bousteads grassing.
- (6) The rear seat is now in perfect condition.

Although not listed in your letter you made a comment that people were complaining about old cabs still being on the road and when were they going to be taken off, I can only assume that these complaints were from other taxi drivers as I have made a point of asking the majority of my customers if they were satisfied with their journey and there were no complaints, Indeed most people said that it was a pleasure to travel in a clean warm and comfortable taxi and that the age of the taxi should not matter.

I would also like to point out that the taxi has been well maintained , A phone call to the grassing will confirm that it passed its most recent test with no faults whatsoever.

sincerely

Local Government (Miscellaneous Provisions) Act 1976 c. 57

Part II HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

This version in force from: **Date not available to present**

(version 1 of 1)

60.— Suspension and revocation of vehicle 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 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:—

(a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;

(b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or

(c) any other reasonable cause.

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.

(3) Any proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

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1. Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), s. 3

2. Pt. II (ss.45–80) amended by Public Passenger Vehicles Act 1981 (c.14), s. 79 applied with modifications by S.I. 1986/567, regs. 3, 4

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