

# CARLISLE CITY COUNCIL

Report to:- **THE CHAIRMAN AND MEMBERS OF THE REGULATORY PANEL**

Date of Meeting:- 9<sup>th</sup> February 2011

Agenda Item No:-

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**Public**

**Operational**

**Delegated Yes**

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## Accompanying Comments and Statements

Cumbria Fire Service  
Cumbria Constabulary  
Environmental Services

**Required**

**Included**

No No  
No No  
No No

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**Title:-**

**STEPHEN LESLIE OLIPHANT – PRIVATE HIRE DRIVER –  
ADDITIONAL MOTORING CONVICTION**

**Report of:-**

**ASSISTANT DIRECTOR-GOVERNANCE**

**Report reference:-**

**GD 09/11**

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## Summary:-

Mr Oliphant is a licensed Private Hire Driver with this Council. He has recently informed the Council of a further motoring conviction which occurred in February last year.

## Recommendation:-

To reach a decision from the options available, after hearing the evidence and any response from Mr Oliphant 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:-

## To the Chairman & Members of the Regulatory Panel on 9<sup>th</sup> February 2011

NAME Stephen Leslie Oliphant

ADDRESS Aglionby, Carlisle

AGE 62

### LICENSING HISTORY

Mr Oliphant has been licensed as either a Private Hire or Hackney Carriage driver since 2006

On the 20<sup>th</sup> of December 2007 he was convicted of “using a hand held mobile phone whilst driving” and was issued with a Fixed Penalty Notice together with 3 points on his driving licence. He was driving his Private Hire vehicle at the time but there were no passengers.

The conditions attached to his Private Hire drivers licence require him to notify the Council, in writing, of any additional convictions. This should be done within 7 days of receiving the conviction and may not be delayed until the next application for renewal of the licence. **(see Appendix 1).**

Mr Oliphant failed to comply with this condition, only notifying the Council at renewal time on the 10<sup>th</sup> of January 2008. He was sent a warning letter regarding both of these matters informing him that any future occurrences may be referred to The Regulatory Panel. **(see Appendix 2).**

### LATEST CONVICTION

On the 17<sup>th</sup> of February 2010 Mr Oliphant was again convicted of “using a hand held mobile phone whilst driving” and was issued with a Fixed Penalty Notice together with a further 3 points on his driving licence. He was not driving a licensed vehicle at the time of the offence.

He again did not comply with the conditions attached to his licence, only notifying the Council at renewal time, 11 months after the offence.

As outlined in the warning letter of the 16<sup>th</sup> January 2008 his latest offence and breach of his conditions has been referred to The Regulatory Panel for consideration.

### LEGISLATION

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

Section 61 (1)(b) gives the grounds of ‘for any other reasonable cause’ **(see Appendix 3)**

## OPTIONS

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

- 1 To take no further action.
- 2 To issue him with a letter of warning
- 3 To suspend his Private Hire drivers licence for a period of time.
- 4 To revoke his Private Hire 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.

Prepared by B J Sharrock  
Licensing Officer

# APPENDIX 1

- X
16. 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. X
17. The driver shall, every three years, submit an application to the Criminal Records Bureau (CRB) for an enhanced disclosure, via the Council, which is a registered body.
18. The driver shall every three years, produce to the Council a certificate signed by his registered medical practitioner, to the effect that he is fit to be the driver of a Private Hire Vehicle. He should come to this decision using Group 2 standards for vocational drivers as laid down in the current issue of "At a glance guide to the current medical standards of fitness to drive" issued by the Drivers Medical Unit, DVLAS, Swansea. In addition he shall if so required, whether or not such medical certificate has been produced, submit to an examination by a registered medical practitioner selected by the Council as to his fitness to be such a driver.
19. The Council may at any time add to delete or alter any of the foregoing conditions and upon notice thereof having been served upon the Driver such additions, deletions or alterations shall as from the date of such service be deemed to be incorporated herein.
20. Any notice required to be served by the Council under this Licence or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by them by prepaid post to or left at the last known address of the driver.
21. This Licence shall continue in force until the 31st January next after the issue of the Licence unless previously suspended or revoked pursuant to any statutory or other provisions.
22. If the driver is permitted or employed to drive a private hire vehicle of which the operator is someone other than himself, he shall before commencing to drive that vehicle deposit his Private Hire Driver's Licence with that operator for retention by him until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle operated by that operator.
23. If during the currency of this Licence any of the particulars supplied in the driver's application shall change, details of the change shall be notified in writing to the Director of Legal & Democratic Services within seven days. Such notification may not be delayed until the next application for renewal of the licence is due.
24. In the interpretation of the conditions the masculine gender shall be deemed to include the feminine and the singular shall be deemed to include the plural.

# APPENDIX 2

## Legal and 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 please ring 0800 95 95 98  
Council Website [www.carlisle.gov.uk](http://www.carlisle.gov.uk)

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Mr S Oliphant  
Aglionby  
Carlisle

**Please ask for:**  
**Direct Line:**  
**E-mail:**  
**Your ref:**  
**Our ref:**

Mr Sharrock  
01228 817523  
[licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)  
Licensing/BS

16 January 2008

Dear Sir

I note from your recent renewal application that you have a conviction for using a mobile phone whilst driving on the 20<sup>th</sup> December 2007.

I must remind you that it is a condition of your licence that you notify the Council in writing of any offence within seven days.

As this appears to be an isolated offence and there were no passengers present I am prepared to deal with this matter via a written warning.

I must warn you therefore that should there be any further convictions, or indeed any breaches of the conditions of your Licence, it may be necessary for you to appear before the Regulatory Panel where the options open to the members include the revocation or suspension of your Drivers Licence.

Your application to renew your PH drivers licence will be pended as it cannot be processed without your DVLA licence. Would you please ensure that you provide this prior to the expiry date of the 31<sup>st</sup> of January 2008.

Yours faithfully

Licensing Manager



INVESTOR IN PEOPLE

Usual Licensing Office Hours 9.30am until 4.30pm

**Local Government (Miscellaneous Provisions) Act 1976 c. 57**

**Part II HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES**

This version in force from: **March 16, 2007 to present**

(version 3 of 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 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.

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

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1. words inserted by Road Safety Act 2006 c. 49 s. 52(3)