

CARLISLE CITY COUNCIL

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

Date of Meeting:- 13th October 2010

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

GARY JAMES BURGESS – SPEEDING CONVICTION

Title:-

ASSISTANT DIRECTOR GOVERNANCE

Report of:-

Report reference:-

GD 52/10

Summary:-

Mr Burgess is a Hackney Carriage driver with this Council. He has notified us that on the 23rd September 2010 he received a fixed penalty notice and 3 pts for speeding.

Recommendation:-

To reach a decision from the options available, after hearing the evidence and any response from Mr Burgess, 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 13th October 2010

NAME Gary James Burgess

ADDRESS Kestrel Hill, Gretna

AGE 36

LICENSING HISTORY

MR Burges was first granted a Hackney Carriage driver's licence by The Regulatory Panel on the 20th January 2010. His application was referred to the Regulatory Panel because of the large number of convictions, both criminal and motoring, that he had received. The majority of the more serious offences took place prior to 2004.

His licence was granted together with a warning letter which stated that his conduct would be closely monitored and if there were any further offences or breaches of his licence he may well find himself back in front of the Panel. **(see Appendix 1)**

CONVICTIONS SINCE 2004

In July 2004 he was fined £400 for an offence of breach of the peace. This resulted from a road rage incident.

In August 2004 he received 150 hours CPO for being in possession of a firearm without a certificate. This related to poaching with an air rifle.

In August 2006 he was fined £350 for misuse of the Public Communication Network. This resulted from an argument with a police call centre operative.

In December 2008 he was fined £275 with 6pts for speeding. This resulted from speeding at 53mph in a 30mph limit on a motorbike.

HISTORY SINCE BEING LICENSED

Since being licensed, only 9 moths ago, the Council have received numerous complaints about the manner of Mr Burgess's driving. Four of them are listed below.

- March 2010 Road rage incident involving another taxi driver. Allegation that he chased after him and swerved in front of him on Stanwix Bank. Shouting and swearing at him out of the taxi window.
- June 2010 Incident involving a lady who's car was blocking the back lane of Hart Street.
- Aug 2010 Road rage incident involving an elderly couple on Kingstown Road. Allegation that he swerved in front of their vehicle and also swore at them. The police were contacted by the couple and they were considering a prosecution but the couple decided they didn't want to pursue it any further.
- Sept 2010 Incident involving a delivery driver wanting to unload in the Loading bay outside of B&Ms in English Street.

RECENT CONVICTION

Mr Burgess has now informed the Council that on the 23rd September 2010 he received a fixed penalty notice and 3pts for speeding. He was in his taxi, with fare paying passengers, and his speed was 92mph in a 70mph limit on the M74. He claimed he was on an airport run and was late for the flight.

It is standard practice to refer any speeding offence to the Regulatory Panel if passengers are involved.

Once this latest speeding offence is recorded by the DVLA he will have 9pts currently valid on his licence. **(see Appendix 2).**

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's licence on a number of grounds.

Section 61 (1) (b) gives the grounds of "for any reasonable cause". **(see Appendix 3)**

OPTIONS

It is recommended that after hearing the evidence and any representations from Mr Burgess, 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 Hackney Carriage driver's licence for a period of time.
- 4 To revoke his Hackney Carriage driver's 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



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

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 G J Burgess
Kestrel Hill
Gretna
Dumfriesshire

Enquiries to: Licensing Officer
Direct Dial: 01228 817523

Date: 26 January 2010

Dear Mr Burgess

Warning Letter

The enclosed licence was granted to you by The Regulatory Panel on the 20th January 2010. The members granted the licence after taking into account your numerous criminal conviction committed between 1991 and 2001.

They also seriously considered your 3 criminal convictions since then and also your motoring conviction for speeding in 2008.

Because of these convictions I must warn you that your conduct will be closely monitored and 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 Regulatory Panel where the options available to the members include the suspension or revocation of your licence.

Yours sincerely

Licensing Manager



DRIVER LICENCE

D74

Important Document - The photocard and paper licence must be produced when required.

APPENDIX 2

1022948102 / 1357

GARY JAMES BURGESS
KESTREL HILL
GRETTNA



Driver's photo: [] Issue number: []

41600

Provisional Entitlement (see booklet INSS7P for category details)

Entitlement History (see Section 3 over)

Category	From	Until	Codes	Category	From	Until	Codes	Category	From	Codes
GH	27 01 91	26 01 94								

Endorsements (as supplied by Convicting Court) See booklet INSS7P 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				
1364	27	11	98	DR10	24	10	98	150.00	12M		00
1322	19	12	08	SP30	11	10	08	£275			06

NOTE: < means "earlier than"

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

Official Use

Changes to your permanent address, please write clearly in the boxes using CAPITAL LETTERS IN BLACK INK. (See Section 5 over)

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 D1, which can be obtained from Post Office branches.

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

Sign in the white box to confirm changes

[]

An executive agency of the Department for Transport

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]¹ this section may appeal to a magistrates' court.

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