

# CARLISLE CITY COUNCIL

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

Date of Meeting:- 28<sup>th</sup> April 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

Title:-	<b>PAUL JOHN DALGLEISH - HACKNEY CARRIAGE DRIVER – SMOKING CONVICTION</b>
Report of:-	<b>ASSISTANT DIRECTOR-GOVERNANCE</b>
Report reference:-	<b>GD 15/10</b>

## Summary:-

Mr Dalgleish is a licensed Hackney Carriage Driver with this Council. He has recently informed the Council of a conviction for smoking in his taxi.

## Recommendation:-

To reach a decision from the options available, after hearing the evidence and any response from Mr Dalgleish, 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. Warning Letters. Local Government (Miscellaneous Provisions) Act 1976

## **To the Chairman & Members of the Regulatory Panel on 28<sup>th</sup> of April 2010**

NAME Paul John Dalglish  
ADDRESS Warwick Square, Carlisle  
AGE 49

### **LICENSING HISTORY**

Mr Dalglish has been licensed as either a Hackney Carriage or Private Hire driver at various periods since 1986. He has in the past had applications refused by The Licensing Panel and the Magistrates Court and has also had his licence revoked for previous convictions. He has had warning letters from the Council and verbal warnings from the Police about the condition of his licensed vehicle.

Since getting his licence back in 1999 there has been a steady stream of minor offences and breaches of his licence conditions which indicate a disregard for authority. These include :-

2001 Parking in a loading bay  
2001 Speeding  
2002 Illegal parking  
2002 Warning letter re dirty taxi  
2004 Complaint from tourist about him emptying rubbish from his taxi onto the road.  
2004 Common Assault  
2005 Illegal plying for hire in The Crescent  
2009 Illegal parking in Scotch Street

### **SMOKING RELATED MATTERS**

In March 2009 Mr Dalglish was sent a warning letter after being seen smoking in his taxi in Lonsdale Street by a Licensing Officer. **APPENDIX 1**

In July 2009 he was again seen smoking in his taxi on Georgian Way by a Licensing Officer and was sent a letter of warning. **APPENDIX 2**

In October 2009 he was again seen smoking in his taxi on Victoria Viaduct by a Licensing Officer and a statement was sent to Environmental Protection who are the enforcement agency with regard to the smoke free legislation. A fixed penalty ticket for £30 was issued which Mr Dalglish ignored. After 3 weeks of non payment the fixed penalty was increased to the full amount of £50. Mr Dalglish also failed to respond to this and was therefore summonsed to appear before the Magistrates Court.

On the 1<sup>st</sup> of March 2010 the case was heard in his absence at The Magistrates Court and he was fined £200. He later claimed he never received the summons and the Court agreed to rehear the case.

At the rehearing on the 29<sup>th</sup> March 2010 he was found guilty of smoking in a smoke free place contrary to Section 7 of the Health Act 2006 and was fined £62 with £75 costs.

### LEGISLATION

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

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

### OPTIONS

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

Prepared by B J Sharrock  
Licensing Officer

**CARLISLE  
CITY COUNCIL**[www.carlisle.gov.uk](http://www.carlisle.gov.uk)**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](http://www.carlisle.gov.uk)

Mr P J Dalglish

Carlisle  
Cumbria

Please ask for:

Direct Line:

E-mail:

Your Ref:

Our Ref:

Licensing Officer

01228 817523

[licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)

10 March 2009

Dear Mr Dalglish

**Smoking**

On the 10th of March 2009, at approximately 13.45, my Licensing Officer observed you smoking in your taxi, in Lonsdale Street, Carlisle.

You should be aware by now that smoking is forbidden in your workplace, which includes your taxi.

I must warn you that should there be any further complaints it may be necessary for you to either, appear before the Council's Regulatory Panel where the options available to the members include the suspension or revocation of your licence, or to refer the matter to the Council's Environmental Services Department who may issue you with a Fixed Penalty Notice, currently £50.

Should you wish to discuss this matter further please contact the licensing office on 817027.

Yours sincerely,

Licensing Manager



INVESTOR IN PEOPLE

## APPENDIX 2

**CARLISLE  
CITY COUNCIL**



[www.carlisle.gov.uk](http://www.carlisle.gov.uk)

## **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](http://www.carlisle.gov.uk)

Mr P J Dalgleish

Carlisle  
Cumbria

Please ask for:

Direct Line:

E-mail: [licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)

Your Ref:

Our Ref:

Licensing Officer

01228 817523

Fred Watson

10 July 2009

Dear Mr Dalgleish

### **Health Act 2006 - Smoking in enclosed vehicle plate no H374**

I am in receipt of a complaint from a council officer, that you were seen at 1830 hrs on Friday 26th June 2009 in Georgian Way Carlisle, smoking in your Hackney Carriage vehicle.

Can I remind you that smoking in a Hackney Carriage at any time is an offence under the above legislation and I would therefore ask that no further breaches occur.  
Penalty for such a breach is a £50 fixed penalty notice.

Should there be any further validated complaints it may be necessary for you to appear before the Council's Regulatory Panel where the options available to the members include the suspension or revocation of your licence.

I will remind you that this is a warning and I look forward to your co-operation in this matter

Yours sincerely,

Licensing Manager



INVESTOR IN PEOPLE

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

**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.

---

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