

CARLISLE CITY COUNCIL

Report to:- **REGULATORY PANEL**

Date of Meeting:- 8th February 2012

Agenda Item No:-

Public	Operational	Delegated Yes
Accompanying Comments and Statements		
Cumbria Fire Service		Required No
Cumbria Constabulary		Included No
Environmental Services		No
Mr Hymers		Yes
Mr Bell		Yes

Title:- WILLIAM MALCOLM SHIELDS - HACKNEY CARRIAGE DRIVER - COMPLAINT REFUSAL TO TAKE A DISABLED PASSENGER IN A WHEELCHAIR

Report of:- DIRECTOR OF GOVERNANCE

Report reference:- GD07/12

Summary:-

A complaint has been received from a member of the public, in which he alleges that Mr Shields, plate H198 who was parked in the disabled bay at the Court square taxi rank, refused to carry him and his disabled mother, who was in a wheelchair.

Recommendation:-

To reach a decision from the options available, after assessing the evidence contained in the witness statements and any response from Mr Shields, taking into account Mr Shield's conduct as a Hackney Carriage Driver and driving history, 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:- Witness Statements from Stephen Hymers and Ian Bell, copies of which are attached.

To the Chairman and Members of the Regulatory Panel - 8 February 2012

NAME William Malcolm Shields

DATE OF BIRTH 61

ADDRESS Stockwell Road, Carlisle,

1 LICENSING HISTORY

- 1.1 Mr Shields was originally a Private Hire driver until his licence was revoked in August 1992, due to numerous convictions.
- 1.2 He applied for a Hackney Carriage Drivers Licence in January 1996, May 1996 and August 1996, but was refused on each occasion on the grounds that he was not a fit and proper person due to his convictions and his conduct whilst a private hire driver.
- 1.3 Mr Shields was eventually granted a Hackney Carriage Driver's Licence in November 1997.

Offences /Panel referrals after that include:

- | | |
|----------|---|
| 10/02/98 | No ID badge displayed or legal spare wheel – Committee 10.2.98
Warning letter issued |
| 19/04/99 | Fixed Penalty Speeding – SP30/70mph in 60mph area
Licence suspended-1 week |
| 17/4/01 | Fixed Penalty Speeding- SP30/37mph in 30mph area
Licence suspended-1 week |
| 03/01/03 | Public complaint, young boy being carried in the front of vehicle
Mr Shields apologised and Warning letter issued |
| 03/12/03 | Public complaint, vehicle floor and seats unfit to carry passengers
Mr Shield's re-imbursed dry cleaning costs to lady |
| 21/06/04 | Public complaint, assaulting member of public
Altercation with a member of the public at station rank/Mr Shields and
Member of public interviewed. Police involved. Nothing proven as no
Independent witnesses. Notes recorded on file |
| 21/06/05 | Public complaint, domestic argument with his partner whilst taking a
fare
Warning letter sent |
| 03/03/08 | Defective headlights – letter sent to attend to the matter |
| 25/04/08 | Public complaint, smoking whilst taking a fare - Warning letter issued |
| 15/07/08 | Public complaint, smoking whilst taking a fare - Warning letter issued
by Environmental Services |
| 17/12/10 | Public complaint, smoking whilst taking a fare - Fixed Penalty issued |

2 BACKGROUND TO COMPLAINT

- 2.1 On Friday 16th December 2011, Mr Hymers and his disabled mother (who was in a wheelchair) approached the station taxi rank and stopped next to the first taxi, (plate H198) that was parked in the disabled bay. The driver (Mr Shields) shook his head and shouted that his ramps weren't working. He did not get out of the vehicle or explain in full, neither did he speak to the taxi driver behind him to explain why he could not take the fare.

(Appendix 1)

- 2.2 The second taxi was approached and the driver also refused to take Mr Hymers and his Mother, merely pointing to the taxi in front.

(This is being dealt with as a separate complaint)

- 2.3 Mr Hymers eventually secured a taxi for his mother and himself from the third wheelchair accessible vehicle in line, driven by Mr Ian Bell who conveyed them to his home address.

(Appendix 2)

- 2.4 This type of complaint causes animosity not only with the public, but also with other drivers who do not know the reason behind the refusal. Drivers have reported to the licensing office that complaints like this are on the increase and are caused by a complete lack of communication between drivers, the public and other drivers. A simple explanation is all that would be required to prevent misunderstanding and a subsequent complaint.

3 INVESTIGATION

On Thursday 5th January 2012 Mr Shields was interviewed by a licensing Officer regarding the allegations.

- He stated that his ramps had 'disintegrated and he told them to get the next cab'.
- He confirmed that he did not get out of his taxi to explain the situation.
- He confirmed the ramps had been broken for a couple of days
- On inspection of the ramps there was a new pin in the centre strip of the ramps and they were in working order.
- When questioned about why he was parked in the disabled bay he said all the cars park there, even the saloons but took my officers point and admitted he should not have been there as he knew it was for disabled access vehicles only and said he was sorry.

Mr Shields was told that the incident would be referred to the Regulatory Panel for a decision.

4 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 ground of **‘for any other reasonable cause’**
See Appendix 3

5 RECOMMENDATION

To reach a decision from the options available, after assessing the evidence contained in the witness statements and any response from Mr Shields, taking into account Mr Shield's conduct as a Hackney Carriage Driver and driving history, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

6 OPTIONS

1. Take no further action
2. Issue him with a verbal or letter of warning.
3. Suspend his Hackney Carriage drivers licence for a period of time.
4. Revoke his Hackney Carriage driver's licence.

Prepared by

S J Stashkiw
Licensing Officer
5th January 2012

CARLISLE CITY COUNCIL

WITNESS STATEMENT

(CJ Act 1967, s.9 MC Act 1980, ss 5A (3a) and 5B, MC Rules 1981, r.70)

Statement ofSTEPEN HYMERS

Age if under 18 ...'Over 18'..... (if over 18 insert 'over 18')

This statement consisting of pages all signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 20TH..... day of ...DECEMBER 2011.....

SignatureS HYMERS.....

At about 3pm Friday 16th December 2011 my mother Mary 62yrs and self walked to the taxi rank at Court Square to get a taxi. My mother is disabled and was in a wheelchair.

The first taxi on the rank was a blue coloured taxi the plate showed H198 and as I pushed my mothers wheelchair to the side door of the taxi the driver shook his head and shouted that his ramps weren't working. That's all he did and so I wheeled my mother to the second taxi on the rank and on reaching it the driver just kept pointing to the first taxi and just kept sitting in the vehicle without moving.

We were then forced to walk further down the rank to about the fourth taxi. The driver got straight out and first shouted at the other two taxi drivers stating that they should have taken my mother and self. He then placed the wheelchair in his vehicle and conveyed us to our home address.

I will say that we had shopping with us, a bulky box and bags and I was surprised the way the first two drivers dealt with us. I wish to complain about the way we were dealt with by these two drivers who just blanked us.

It is difficult enough for my mother getting around in a wheelchair and when something like this happens it does upset her and she is made to feel to be an inconvenience.

Signature ...S HYMERS..... Signature witnessed by F Watson

CARLISLE CITY COUNCIL

WITNESS STATEMENT

(CJ Act 1967, s.9 MC Act 1980, ss 5A (3a) and 5B, MC Rules 1981, r.70)

Statement ofIAN BELL

Age if under 18 'Over 18'..... (if over 18 insert 'over 18')

This statement consisting of pages all signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 21st..... day of ...DECEMBER 2011

Signature I BELL.....

I am Ian Bell and I am employed by Beeline Taxi's as a Hackney Carriage Driver licensed by Carlisle City Council. The vehicle I drive is a black TW200 wheelchair accessible taxi.

At about 3pm Friday 16th December 2011 I was sat in my vehicle at the Court Square Taxi rank and my vehicle was fourth in line. I observed a male person walk towards the front vehicle on the rank and he accompanied a lady in a wheelchair.

They appeared to attempt to obtain access to the taxi which was parked in the wheelchair access bay, but after a few seconds they then walked down to the second vehicle on the rank. Again I noticed they did not get access to that vehicle which was a wheelchair accessible taxi and they then proceeded further down the rank to my own vehicle, obviously because it was wheelchair accessible.

I asked the male and female why they hadn't got access to the first two wheelchair accessible taxis and I was informed the driver of the first taxi had told them his ramps were broken and the driver of the second taxi had just blanked them.

I then asked Malcolm Shields the driver of the first taxi why he had not picked up the male and female and he just dismissed me saying that his ramps were broken.

I then spoke to the taxi driver of the second vehicle that had not allowed the couple access. This was a driver I know as Bulent Celik. He refused to take them because Shields hadn't taken them and shortly after that he picked up a fare and drove off.

I did assist the male and female into my vehicle and conveyed them to their home address. During the journey I could tell they were upset as to the way they had been treated by the first two taxi drivers mentioned above.

Shields was driving his licensed wheelchair accessible vehicle plate no: H198 and Celik was driving his licensed wheelchair accessible taxi plate no: H145

Signature ...I BELL..... Signature witnessed by F Watson

PART II, 1976 ACT.

SECTION 61.

SUSPENSION AND REVOCATION OF DRIVERS' LICENCES.

- (1) Notwithstanding anything in the Act of 1847 or in any part of this Act, a District Council may suspend or revoke or (on application therefore 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) 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.
- (3) Any driver aggrieved by a decision of a District Council under this Section may Appeal to a Magistrates Court.

NOTE.

The above section is as amended by the Criminal Justice Act 1982.