

Report to Regulatory Panel

Agenda
Item:

A.1

Meeting Date: 20th January 2021
Portfolio: Finance, Governance and Resources
Key Decision: No
Within Policy and Budget Framework: No
Public / Private: Public

Title: Hackney Carriage Driver - Enforcement
Report of: Corporate Director of Governance and Regulatory Services
Report Number: GD.04/21

Purpose / Summary:

Gary Spedding is a Licensed Private Hire Driver. Information was received from the City Council's Enforcement Team that Mr Spedding committed a number of environmental offences on 18th October 2020. This matter is referred to the Regulatory Panel to consider.

Recommendation:-

To reach a decision from the options available, after hearing the evidence and the response from Mr Spedding in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Enforcement Policy.

Tracking

Executive:	N/A
Scrutiny:	N/A
Council:	N/A

1. BACKGROUND

- 1.1. Carlisle City Council has licensed Mr Spedding as a Private Hire Driver (PD047) since March 2017 (Appendix1) and a Hackney Carriage Driver (HD272) since 2004. (Appendix2)
- 1.2. Mr Spedding currently has no penalty points endorsed on his DVLA driving licence and no penalty points awarded under the Council's Hackney Carriage and Private Hire Enforcement Policy.

2. CURRENT COMPLAINT

- 2.1. On 22nd October 20 the Licensing Office was made aware Carlisle City Council Civil Enforcement team had carried out enforcement activity on 18th October 20 at the Viaduct Car Park Carlisle in relation to littering.in that area. A man had been observed parking his vehicle SG17 NHA on the car park. This person was later identified as Gary Spedding a licensed Hackney & Private Hire driver who was driving his licensed Private Hire vehicle a black V/W Sharran P618.
- 2.2. The actions of Mr Spedding whilst on the car park were recorded by video recording and details are below.

Time on footage	Time (date 18/10/20)	Notes
00:26	09:23	Licensed vehicle SG17 NHA parks up in space at the Upper Viaduct car park. The driver is identified as Gary Spedding
00:39	09:24	Mr Spedding opens his driver door and throws a plastic bottle to the ground
01:45	09:37	Mr Spedding opens his driver side window and throws out a packet/wrapper
02:09	09:38	Mr Spedding throws out several pieces of paper from his driver side window
02:31	9:39	Mr Spedding throws out more paper from his driver side window
04:37	11:04	Mr Spedding appears to urinate beside his vehicle
05:42	11:06	Mr Spedding throws litter from his driver side window and leaves the car park

- 2.3. The Civil Enforcement Team has since issued Mr Spedding three Fixed Penalty Notices for the littering offences
- 2.4. Mr Spedding failed to report these offences to the Licensing Office within the required time period of 7days from receiving the notices which is a breach of condition 16 attached to his Private Hire Driving Licence and paragraph 18 of the Hackney Carriage Driver Code of Conduct which reads:

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.

- 2.5. A letter was forwarded to him requesting that he attend the Civic Centre for interview in relation to the above. During interview he apologised for his actions on the car park stating that he had not done anything like this before and believed his actions were due to stress of illness within his close family. He also stated that he was unaware of reporting Fixed Penalty notices for such offences to the Licensing Office.

3. LEGAL COMMENTS & LEGISLATION

- 3.1. Sections 51& 59 of the Local Government (Miscellaneous Provisions) Act 1976 provide that a licensing authority shall not grant a Private Hire or Hackney Carriage Driver's Licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence (Appendix 4). Section 61(1)(b) enables the Panel to take action in respect of a Driver in respect of a Driver on the ground for "any other reasonable cause" (Appendix 5).
- 3.2 While there is no statutory definition of 'fit and proper person', the Courts have given helpful guidance over the years and it is established that the objectives of the licensing regime are intended to ensure that licensed drivers are "suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers" (*McCool –v- Rushcliffe Borough Council [1998]*).

4 PENALTY POINTS

- 4.1 The Council adopted the Hackney Carriage and Private Hire Licensing Enforcement Policy in March 2019. A Penalty Points System has been introduced to work in conjunction with other enforcements options. The purpose of the scheme is to record misdemeanours and to act as a record of drivers, vehicle

proprietors and operator's behaviour and conduct so as to ascertain whether they are a fit and proper person.

- 4.2 Penalty points remain on the licensee's record for two years on a roll forward basis and where 12 or more penalty points have been recorded in any 24 month period the matter will be referred to the Regulatory Panel for consideration on the fitness and propriety of a license holder.
- 4.3 The conduct of Mr Spedding detailed in this report will fall under the misconduct "Unsatisfactory Behaviour or Conduct of a Driver" for which 1 to 12 points can be issued. The policy states that for this misdemeanour, officers can award up to a maximum of 6 points and the Regulatory Panel can award up to 12 points. Mr Spedding also failed to declare the offences in accordance with the Hackney Carriage Driver Code of Conduct and this misconduct attracts 6 penalty points.

5 OPTIONS

- 5.1 It is recommended that after hearing the evidence and any representations from Mr Spedding, members reach a decision in line with the options available.
- Take no action against Mr Spedding
 - To issue Mr Spedding with a letter of warning.
 - To suspend Mr Spedding's Private Hire Driver licence and Hackney Carriage Driver's licence for a period of time.
 - To revoke Mr Spedding's Private Hire Driver licence and Hackney Carriage Driver's licence.
 - Award penalty points to Mr Spedding as per the enforcement policy
 - A combination of the above

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Appendices
attached to report:

1. Private Hire Driver Licence
2. Hackney Driver Licence
3. Sections 51 and 59 Misc. Provisions Act 1976
4. Section 61 (1) (b) Misc. Provisions Act 1976

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:

- **Hackney Carriage and Private Hire Enforcement Policy March 2019**
- **Private Hire Driver Conditions of Licence**
- **Hackney Carriage Driver Code of Conduct**

CORPORATE IMPLICATIONS:

LEGAL – contained within report

FINANCE – None

EQUALITY – The public sector Equality Duty and Equality Policy has been considered by the service manager in preparing the recommendations

INFORMATION GOVERNANCE – None

City of



Carlisle

Private Hire Driver Licence**PD047**

Licence Holder:

Gary SPEDDING

Date of birth

Licence ValidityValid from **04 Apr 2019** to **03 Apr 2022****IMPORTANT NOTES**

Carlisle City Council hereby license the person named above to drive licensed private hire vehicles.

This licence is subject to the provisions of the Town Police Clauses Act 1847, the bylaws made thereunder, the Local Government (Miscellaneous Provisions) Act 1976 and the Conditions attached to the licence made under it, the Transport Act 1985 and any other relevant Acts.

The possession of this document does not guarantee that the licence is in force. Its validity may be established by reference to the Council's Licensing Office.

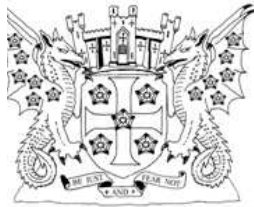
This licence is not transferable

**Conditions applicable to this
licence are attached.**

Licensing Manager

Dated: **04/04/2019**

City of



Carlisle

Hackney Carriage Driver Licence **HD272**

Licence Holder

Gary SPEDDING



Date of birth

Licence Validity

Valid from **04 Apr 2019** to **03 Apr 2022**

IMPORTANT NOTES

This licence is subject to the provisions of the Town Police Clauses Act 1847, the bylaws made thereunder, the Local Government (Miscellaneous Provisions) Act 1976 and the Conditions attached to the licence made under it, the Transport Act 1985 and any other relevant Acts.

The possession of this document does not guarantee that the licence is in force. Its validity may be established by reference to the Council's Licensing Office.

This licence is not transferable

Wheelchair Accessible

Non Wheelchair Accessible

**Conditions applicable to this
licence are attached.**

Licensing Manager

Dated: **04 Apr 2019**



Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

51 Licensing of drivers of private hire vehicles.

- (1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

- (a) unless they are satisfied [^{F1}—
- (i)] that the applicant is a fit and proper person to hold a driver's licence; [^{F2}and
 - (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a private hire vehicle; or]
- (b) [^{F3}to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.]

[^{F4}(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.]

[^{F5}(1A)

- [^{F6}(1) For the purposes of subsection (1) of this section a person is authorised to drive a motor car if—
- (a) he holds a licence granted under Part III of the Road Traffic Act 1988 (not being a provisional licence) authorising him to drive a motor car, or

Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 51. (See end of Document for details)

- (b) he is authorised by virtue of section 99A(1) [^{F7}or section 109(1)] of that Act to drive in Great Britain a motor car.]
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- (3) It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely—
- (a) the name of the person to whom it is granted;
 - (b) the date on which and the period for which it is granted; and
 - (c) if the licence has a serial number, that number,
- and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

Annotations:

Amendments (Textual)

F1 Words in s. 51(1)(a) renumbered as s. 51(1)(a)(i) (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)

,
[s. 94\(1\)](#)

,
Sch. 5 para. 18(2)(a)

(with
[Sch. 5 para. 54](#)
);
[S.I. 2016/1037](#)

,
[reg. 5\(i\)](#)
(with
[reg. 6](#)
)

F2 S. 51(1)(a)(ii) substituted (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)

,
[s. 94\(1\)](#)

,
Sch. 5 para. 18(2)(b)

(with
[Sch. 5 para. 54](#)
);
[S.I. 2016/1037](#)

,
[reg. 5\(i\)](#)
(with
[reg. 6](#)
)

F3 S. 51(1)(b) substituted (1.1.1997) by
[S.I. 1996/1974](#)

,
[reg. 5](#)



Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

59 Qualifications for drivers of hackney carriages.

- (1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—
- (a) unless they are satisfied [^{F1}—
 - (i) that the applicant is a fit and proper person to hold a driver's licence; [^{F2}and
 - (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a hackney carriage; or]
 - [^{F3}(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.]

[^{F4}(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a hackney carriage, a district council must have regard to any guidance issued by the Secretary of State.]

[^{F5}(1A) For the purposes of subsection (1) of this section a person is authorised to drive a motor car if—

- (a) he holds a licence granted under Part III of the Road Traffic Act 1988 (not being a provisional licence) authorising him to drive a motor car, or
- (b) he is authorised by virtue of section 99A(1) [^{F6}or section 109(1)] of that Act to drive in Great Britain a motor car.]

[^{F7}(1A)]

Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 59. (See end of Document for details)

- (2) Any applicant aggrieved by the refusal of a district council to grant a driver's licence on the ground that he is not a fit and proper person to hold such licence may appeal to a magistrate's court.

Annotations:

Amendments (Textual)

- F1** Words in s. 59(1)(a) renumbered as s. 59(1)(a)(i) (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)

,
[s. 94\(1\)](#)

,
Sch. 5 para. 23(2)(a)

(with
[Sch. 5 para. 54](#)

);
[S.I. 2016/1037](#)

,
[reg. 5\(i\)](#)
(with
[reg. 6](#)

)

- F2** S. 59(1)(a)(ii) substituted (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)

,
[s. 94\(1\)](#)

,
Sch. 5 para. 23(2)(b)

(with
[Sch. 5 para. 54](#)

);
[S.I. 2016/1037](#)

,
[reg. 5\(i\)](#)
(with
[reg. 6](#)

)

- F3** S. 59(1)(b) substituted (1.1.1997) by
[S.I. 1996/1974](#)

,
[reg. 5](#)

,
Sch. 4 para. 2(4)

- F4** S. 59(1ZA) inserted (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)

,
[s. 94\(1\)](#)

,
Sch. 5 para. 23(3)

(with
[Sch. 5 para. 54](#)

);



Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

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;

[^{F1}(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;]or

- (b) any other reasonable cause.

[^{F2}(1A) Subsection (1)(aa) does not apply if—

- (a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the driver has been required to pay an immigration penalty—
 - (i) more than three years have elapsed since the date on which the penalty was imposed, and
 - (ii) the amount of the penalty has been paid in full.]

(2) (a)

Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 61. (See end of Document for details)

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 [^{F3}level 1 on the standard scale].

[^{F4}(2ZA) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 62A applies (but see subsection (2) of that section).]

[^{F5}(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 [^{F6}subsection (1) of] this section may appeal to a magistrates' court.

Annotations:

Amendments (Textual)

- F1** [S. 61\(1\)\(aa\)](#)
inserted (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)
,
[s. 94\(1\)](#)
,
Sch. 5 para. 24(2)
(with
[Sch. 5 para. 55](#)
);
[S.I. 2016/1037](#)
,
[reg. 5\(i\)](#)
(with
[reg. 6](#)
)
- F2** [S. 61\(1A\)](#)
inserted (1.12.2016) by
[Immigration Act 2016 \(c. 19\)](#)
,
[s. 94\(1\)](#)
,
Sch. 5 para. 24(3)
(with
[Sch. 5 para. 55](#)