

# AGENDA

## Regulatory Panel

**Tuesday, 04 May 2021 AT 16:00**

**This meeting will be a virtual meeting and therefore will not take place in a physical location.**

**\*\* SPECIAL MEETING \*\***

### **Virtual Meeting - Link to View**

This meeting will be a virtual meeting using Microsoft Teams and therefore will not take place at a physical location following guidelines set out in Section 78 of the Coronavirus Act 2020.

[To view the meeting online click this link](#)

### **Register of Attendance and Declarations of Interest**

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

### **Apologies for Absence**

To receive apologies for absence and notification of substitutions

### **Public and Press**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

## **PART A**

**To be considered when the Public and Press are present**

### **A.1 COMPLAINT AGAINST A HACKNEY CARRIAGE DRIVER**

**3 - 32**

The Licensing Manager to submit a report regarding a complaint against a Hackney Carriage driver.  
(Copy report GD.35/21 herewith)

## **PART B**

**To be considered when the Public and Press are excluded from the meeting**

- NIL -

### **Members of the Regulatory Panel:**

**Conservative** – Bainbridge, Ellis, Meller, Morton (Vice Chair), Nedved, Shepherd, Collier (sub), Mrs Mallinson (sub), J Mallinson (sub)

**Labour** – Ms Ellis-Williams (Chair), Miss Sherriff, Dr Tickner, Patrick, Miss Whalen, Alcroft (sub), Birks (sub)

**Independent** - Tinnion, Paton (sub)

Enquiries, requests for reports, background papers etc to:

Morag Durham, Democratic Services Officer [morag.durham@carlisle.gov.uk](mailto:morag.durham@carlisle.gov.uk)

# Report to Regulatory Panel

Agenda  
Item:

**A.1**

Meeting Date: 4<sup>th</sup> May 2021  
Portfolio: Finance, Governance and Resources  
Key Decision: No  
Within Policy and Budget Framework: No  
Public / Private: Public

Title: Complaint against Hackney Carriage Driver  
Report of: Corporate Director of Governance and Regulatory Services  
Report Number: GD.35/21

## Purpose / Summary: Purpose / Summary:

MD Nizamul Hoque has been the holder of Hackney Carriage Driver licence with this Council from 12th October 2018. The Licensing Office has received a complaint of him not showing a 'duty of care' towards a female passenger on the 19<sup>th</sup> March 2021. Mr Hoque appeared before the Regulatory Panel on the 4<sup>th</sup> December 2019 for a similar issue and his licence was suspended for a period of six weeks. Mr Hoque has been referred to the Regulatory Panel to consider his fitness and propriety to hold a Hackney Carriage Driver Licence.

## Recommendations:

To reach a decision on Mr Hoque's fitness to be a licensed driver from the options available, after hearing evidence and any response from Mr Hoque. This is in accordance with Section 59 Local Government (Miscellaneous Provisions) Act 1976.

## Tracking

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

## **1. BACKGROUND & LICENSING HISTORY**

- 1.1. Mr Hoque has been the holder of a Hackney Carriage Driver licence (HD162) with this Council since the 12<sup>th</sup> October 2018 and his licence expires on 11<sup>th</sup> October 2021 (**Appendix 1**).
- 1.2. On 21<sup>st</sup> January 2019 the Licensing Office received a complaint from a female member of the public who had booked a taxi to convey her from the Cumberland Infirmary Carlisle to Kirkoswald, near Penrith. The journey occurred at about 0200hrs on 11<sup>th</sup> January 2019 when the female had been discharged from the hospital. The basis of the complaint was that she had been overcharged for the journey, she was charged £70 for a 15 mile journey which should have cost approximately £43. Details of the complaint can be read in the warning letter forwarded to Mr Hoque by the Licensing Office on 29<sup>th</sup> January 2019 (**Appendix 2**).
- 1.3. On 29<sup>th</sup> July 2019 the Licensing Office received a complaint from a member of the public that Mr Hoque's hackney vehicle had been parked in Thirlmere Street Carlisle that day causing an obstruction of the footpath. When interviewed he stated that he had finished work around 2am and couldn't find anywhere else to park the vehicle and apologised. He was reminded of the behaviour expected of a driver under the Hackney Carriage Driver Codes of Practice as well as the offence of obstructing the highway. A letter of warning was forwarded to him (**Appendix 3**).
- 1.4. On 18<sup>th</sup> October 2019 the Licensing Office received a complaint from a member of the public relating to a booking she had made through Radio Taxis. The complaint regarded a return airport transfer from Carlisle to Newcastle Airport. The complainant stated that they had been overcharged on the agreed fee, there was a refusal to issue a receipt and due to Mr Hoque's actions two young persons walked to their homes late at night.
- 1.5. Mr Hoque appeared before the Regulatory Panel on 4<sup>th</sup> December 2019 for the above complaint when his Hackney Carriage Driver Licence was suspended for a period of six weeks. A copy of the panel report and decision letter forwarded to Mr Hoque can be found at **Appendix 4 and 5**.

## **2. CURRENT COMPLAINT**

- 2.1. The complainant, Mrs B, is the mother of 22-year-old Miss B and they reside in Heads Nook. Mrs B states that at about 0215 hrs 19<sup>th</sup> March 2021 her daughter, who was in Carlisle at that time, telephoned Radio Taxis and requested a taxi to pick her up at Stonegarth, Morton, to convey her to her home address in Heads Nook.

- 2.2. A short time later the taxi driven by Mr Hoque arrived at the address in Stonegarth where Miss B and a female friend got into the taxi. Miss B requested the driver to drop off her friend at Queensway first.
- 2.3. Whilst sat in the taxi outside the friend's house in Queensway, Mr Hoque requested £5 for the fare to Queensway. Miss B informed him that she did not have any cash with her, but her mother would pay the total fare on arrival at her home in Heads Nook.
- 2.4. Mr Hoque then requested that the fare should be paid 'up front'. Miss B telephoned her mother placing the phone on loudspeaker so the driver could speak directly with her mother.
- 2.5. Mrs B spoke to the driver and offered to pay the fare by means of bank transfer, but he said he was unable to accept that. She then informed the driver that she would pay him cash on arrival at Heads Nook. The driver advised her that this would not be acceptable and he would have to decline the journey since in the past there have been previous issues whereby the fare had not been paid by people, particularly during the early hours of the morning.
- 2.6. The taxi driver then advised Miss B that he would have to decline the fare and he would waive the £5 fee for the journey from Stonegarth to Queensway.
- 2.7. Miss B exited the car outside her friends address at Queensway, and the taxi left the area. Miss B then informed her mother that she would walk back to Stonegarth and would await at that house to be picked up by her mother. Mrs B then travelled from Heads Nook to Carlisle and conveyed her daughter home.
- 2.8. Mrs B complained that the actions of the taxi driver were not acceptable especially leaving a vulnerable female alone at that time of night which is highly topical at the moment.
- 2.9. When interviewed by a licensing officer by telephone on 9<sup>th</sup> April and 16<sup>th</sup> April 2021 Mr Hoque stated that he was the driver of the taxi concerned and he was assigned the pick-up by Radio Taxis. Mr Hoque confirmed the complainant's version of the events. He stated that he did pick up the two females from Stonegarth and was requested to convey them to Queensway first, which he did. He stated that one of the females exited the taxi and went into a house and he requested £5 for the fare to Queensway.
- 2.10. Mr Hoque confirmed that Miss B informed him that she did not have any money with her, but her mother would pay the whole fare on arrival at her home address in Heads Nook. Mr Hoque stated that the young female telephoned a lady who stated she was her mother and placed the telephone on loudspeaker mode. He agreed that he did speak to a lady purporting to be her mother who did offer to complete a bank transfer which he stated could easily be cancelled without his knowledge and agreed that she stated she would pay by cash for the fare on arrival at the home address. Mr Hoque said that there was no

guarantee that the fare would be paid and therefore stated to Mrs B that he could not transport her daughter home. He states that he did inform the young lady that there would be no requirement to pay the £5 fee to Queensway.

- 2.11. Mr Hoque stated that he informed Radio Taxis that he had declined the fare and on turning his car around he watched the female walk towards her friend's house.
- 2.12. During interview, it was explained to him that a taxi driver has a duty of care in relation to their passengers and leaving a female at the side of the road could have placed her in a vulnerable position especially at that time of the morning to which he replied that he watched her walk towards her friend's house as he drove off.
- 2.13. Mr Hoque stated that the two females he transported to Queensway had obviously been drinking alcohol and it was pointed out that if that was the case it would make them more vulnerable.
- 2.14. During a second telephone interview, Mr Hoque told the Licensing Officer that he refused the fare due to the passengers not wearing masks. The Licensing Officer challenged why he had commenced the journey without requesting they did and that he did take them on the shorter part of the journey without this being an issue to him.
- 2.15. Radio Taxis were contacted in relation to this incident and confirmed the booking and stated they are aware that drivers sometimes request partial payment up front during the early hours of the morning when travelling out to rural areas within the district due to bilking but this is a decision made by the self-employed driver and entirely depends upon circumstances. There was a 'pay up front' advice placed on Mr Hoque's system which indicates there had been a previous issue at that address for persons leaving or arriving at that address.
- 2.16. The complainants and a representative from Radio Taxi will be attending the Regulatory Panel to answer any questions from Members.

### **3. LEGISLATION AND LEGAL COMMENTS**

- 3.2 Section 59 of the 1976 Act provides that a licensing authority shall not grant a Hackney Carriage Driver's Licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. Section 61(1)(b) enables the Panel to take action in respect of a driver if they consider that circumstances exist which mean that the driver is not, or is no longer, a fit and proper person to hold a driving licence. (**Appendices 7 & 8**)
- 3.3 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]*).

- 3.4 Having heard Mr Hoque and established the facts, Members need to consider whether Mr Hoque is, in light of these facts, a fit and proper person to hold a Hackney Driver licence. If not, it should be revoked. If the misconduct is not, however, enough to lead to that conclusion, the Panel may consider whether a lesser sanction is more appropriate and consider the options available to them.

#### 4 OPTIONS

Members should reach a decision in line with the following options

- To award him penalty points in accordance with the Hackney Carriage and Private Hire Enforcement Policy (**Appendix 6**) and/or
- To suspend his Hackney Driver Licence for a period of time
- To revoke his Hackney Carriage Driver Licence
- To take no further action

<b>Contact</b>	<b>Fred.watson@carlisle.gov.uk</b>	<b>I</b>	<b>7025</b>
<b>Officer:</b>		<b>;</b>	
		<b>1</b>	

<b>Appendices attached to report:</b>	1. Hackney Carriage Driver licence – HD162
	2. Warning letter to Mr Hoque dated 29 <sup>th</sup> January 2019
	3. Warning letter to Mr Hoque dated 7 <sup>th</sup> August 2019
	4. Report to Regulatory Panel 4 <sup>th</sup> December 2019
	5. Regulatory Panel decision Letter
	6. Hackney & Private Hire Enforcement Policy Penalty Points Tariff
	7. Section 59 Local Government (MP) Act 1976
	8. Section 61 Local Government (MP) 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:**

- **None**

**CORPORATE IMPLICATIONS:**

**LEGAL – contained within report**

**FINANCE – None**

**EQUALITY – None**

**INFORMATION GOVERNANCE – None**



City of



Carlisle

# Hackney Carriage Driver Licence **HD162**

Licence Holder

**MD Nizamul HOQUE**

Date of birth

Licence Validity

Valid from **12 Oct 2018** to **11 Oct 2021**

## **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: **23 Apr 2019**

**CARLISLE**  
CITY COUNCIL



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

## **Governance and Regulatory Services**

### **Licensing**

**Corporate Director of Governance and Regulatory Services:**  
**M D Lambert LLB (Hons), MBA.**

Civic Centre Carlisle CA3 8QG • Telephone (01228) 817200

Document Exchange DX 63037 Carlisle • Type talk 18001 01228 817200 •

Mr N Hoque

**Please ask for:**

Licensing

**Direct Line:**

01228 817523

**E-mail:**

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

**Your ref:**

**Our ref:**

**Date:**

29 January 2019

*COPY*

Dear Mr Hoque,

On the 22nd of January 2019 my Licensing Officer interviewed you regarding a complaint the Council had received from a passenger in your Hackney Carriage. She had claimed that she had been overcharged for the journey and also that due to your behaviour had felt very uncomfortable in your vehicle.

The hirer alleged that she had been charged £70.00 for a 15 mile journey which should have cost approximately £43.00 on Tariff 2 at 02.00hrs on the 11<sup>th</sup> January 2019. In addition, she alleges that you complained throughout the journey how you had wished you had not taken this fare as you were due to finish and were missing out on sleep.

You admitted being the driver although you dispute the charge and time and could not adequately explain why you did not charge the metered fare of £47.95. You also admitted to charging the hirer ten minutes waiting time whilst they were collating the requested fare.

I note that you have offered a full apology and wish to return the full fare of £70.00. The complainant has been contacted and she is satisfied with this response and you should therefore make arrangements with the Licensing Officer to return the fare to the customer.

It is disappointing that you have only been driving 14.5 weeks and have blatantly ignored points 6, 7, and 16b of the code of practice for Hackney Carriage Drivers, enclosed.

Due to the severity of this complaint I intend to deal with this matter by way of this final written warning.

The letter will remain on your file and should the Council receive any similar complaints in the future this incident will be referred in any report to the Regulatory Panel.

Yours sincerely

Nicola Edwards  
Licensing Manager



## Governance and Regulatory Services

**Corporate Director of Governance and Regulatory Services: M D Lambert<sup>4</sup>**  
**LLB (Hons), MBA**  
Civic Centre Carlisle CA3 8QG Telephone (01228) 817000  
Document Exchange Quote DX 63037 Carlisle Type talk 18001 01228 817200

Mr M N Hoque

Enquiries to: Licensing  
Direct Dial: 01228 817523  
email: [licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)

7 August 2019

Dear Mr Hoque

### Warning Letter

On the 5th August 2019 my Licensing Officer interviewed you regarding a complaint that the Council had received from a member of the public. They had informed us that you had parked your vehicle across the pavement on Thirlmere Street on the 29th July 2019 and provided photographs to substantiate their complaint.

Whilst I understand you found it difficult to find a suitable parking space at the end of your night shift, you were advised that not only was this an unnecessary obstruction but you had also given no consideration to pedestrians or local residents. Parking in this manner makes it extremely difficult for persons in wheelchairs or those pushing prams to continue on the pavement, they would have no option but to step off the kerb onto the road which is unacceptable.

You were reminded of the behaviour expected of you under the Hackney Carriage Drivers code of practice and that the way you had parked was also an offence of the Highways Act 1980 for which you could have been fined.

This letter will remain on your file and may be mentioned should the Council receive any similar complaints in the future.

Yours sincerely

Licensing



# Report to Regulatory Panel

Agenda  
Item:

Meeting Date: 4<sup>th</sup> December 2019  
 Portfolio: Finance, Governance and Resources  
 Key Decision: No  
 Within Policy and Budget Framework: No  
 Public / Private: Private \* Not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972

Title: COMPLAINT AGAINST HACKNEY CARRIAGE DRIVER  
 Report of: Licensing Manger  
 Report Number: GD.67/19

## Purpose / Summary: Purpose / Summary:

MD Nizamul Hoque has been the holder of Hackney Carriage Driver licence with this Council from 12th October 2018. The Licensing Office has received a complaint of him overcharging for an Airport transfer between Carlisle and Newcastle airport on Thursday 17<sup>th</sup> October 2019. Due to him being forwarded a final warning letter for a similar offence in January 2019 by the Licensing Office, he appears before you today.

## Recommendations:

To reach a decision on Mr Hoque's fitness to be a licensed driver from the options available, after hearing evidence and any response from Mr Hoque. This is in accordance with Section 59 Local Government (Miscellaneous Provisions) Act 1976.

## Tracking

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

## **1. BACKGROUND & LICENSING HISTORY**

- 1.1. MD Nizamul Hoque has been the holder of a Hackney Carriage Driver licence (HD162) with this Council since the 12<sup>th</sup> October 2018 and his licence expires on 11<sup>th</sup> October 2021 (**Appendix 1**).
- 1.2. On 21<sup>st</sup> January 2019 the Licensing Office received a complaint from a female member of the public who had booked a taxi to convey her from the Cumberland Infirmary Carlisle to Kirkoswald, near Penrith. The journey occurred at about 0200hrs on 11<sup>th</sup> January 2019 when the female had been discharged from the hospital. The basis of the complaint was that she had been overcharged for the journey as she was charged £70 for a 15 mile journey which should have cost approximately £43. Details of the complaint can be read in the warning letter forwarded to Mr Hoque by the Licensing Office on 29<sup>th</sup> January 2019 (**Appendix 2**).
- 1.3. On 29<sup>th</sup> July 2019 the Licensing Office received a complaint from a member of the public that Mr Hoque's hackney vehicle had been parked in Thirlmere Street Carlisle that day causing an obstruction of the footpath. When interviewed he stated that he had finished work around 2am and couldn't find anywhere else to park the vehicle and apologised. He was reminded of the behaviour expected of a driver under the Hackney Carriage Driver Codes of Practice as well as the offence of obstructing the highway. A letter of warning was forwarded to him (**Appendix 3**).

## **2. CURRENT ISSUE**

- 2.1. On 18<sup>th</sup> October 2019 the Licensing Office received a complaint from a member of the public relating to a booking she had made through Radio Taxis. The complaint regarded a return airport transfer from Carlisle to Newcastle Airport and stated that there had been an overcharge on the agreed fee.
- 2.2. The complainant stated that she had telephoned Radio Taxi on Sunday 13<sup>th</sup> October 2019 to pre-book a taxi for her daughter and three friends, who were to travel from Newlaithes Avenue, Carlisle to Newcastle Airport at 0130hrs on Thursday 17<sup>th</sup> October 2019 and to be collected from Newcastle Airport at 2230hrs the same day to be returned to Carlisle. Mrs Kehoe's daughter and friends (all 17 years old) were taking part in an organised school day trip to Poland and they were all to be picked up from Newlaithes Avenue. The fare was agreed at £200 by the operator.
- 2.3. She stated that due to concerns relating to the students arriving back into Carlisle late at night, she contacted Radio Taxis on Monday 14<sup>th</sup> or Tuesday 15<sup>th</sup> October 2019 requesting clarification that the students would be dropped off at their individual home addresses on return. She states that she spoke to a female

operator who confirmed that this would be done and the cost was covered in the fee already agreed, and the passengers should just let the driver know where they wanted to go on their return.

- 2.4. The party was picked up at Newlaithes Avenue by Mr Hoque in his hackney carriage vehicle at the time and date agreed. They were conveyed to Newcastle Airport. On arrival at the airport Mr Hoque drove into the Express Pick up and Drop off car park and requested a sum of £3 from the students in order to pay the exit charge. He was handed the cash by the students.
- 2.5. Mr Hoque returned to Newcastle Airport to collect the students who were due to arrive back at Newcastle at 2230hrs. He parked his vehicle in the short stay car park and waited in the arrivals lounge for them. On leaving the arrivals lounge he states he paid £7 for the cost of the parking his vehicle and commenced the journey back to Carlisle. A copy of Airport Parking tariff is attached (**Appendix 4**).
- 2.6. Whilst travelling back to Carlisle the A69 was closed near the roundabout at Brampton by-pass and therefore he travelled along the A689 (Airport Road) into Carlisle. In the area of Hardwick Circus one of the students asked to be conveyed to their home address in Currock and Mr Hoque activated the taxi meter in the vehicle. He dropped off the student in Currock and then travelled to Newlaithes Avenue where he stopped and requested that the complainants daughter pay the additional metered fare of £15 as well as an additional £7 for the airport car park charge. She paid him £22. The two other students got out of the taxi as they did not have any money and walked to their homes (Newtown Road and The Beeches). It is noted that the time was between midnight and 1am. The complainant's daughter requested a receipt for the total fare and Mr Hoque handed over two receipts totalling £200 (**Appendix 5**).
- 2.7. Mr Hoque was interviewed at the Civic Centre on 18<sup>th</sup> October 2019 and he confirmed that Radio Taxis had allocated him with the job and that he understood it was a return journey from Newlaithes Avenue to Newcastle Airport. He had received no further instructions. He conveyed the students to the airport and requested they pay £3 for him to exit the Drop Off car park which is located immediately outside the terminal. They paid him the £3 and entered the terminal.
- 2.8. Later the same evening he travelled to Newcastle Airport to collect the students and he parked his taxi in the Short Stay car parking area. He entered the Arrivals area and awaited the students return. When meeting up with the students he paid the car parking fee at one of the machines within the Arrivals area and he states that the fee was £7.
- 2.9. Mr Hoque confirmed that he conveyed the students back to Carlisle as the complainant had described and he had charged an extra £15 for conveying one of

the students to Currock. He stated that on arrival at Newlaithes Avenue he requested the additional £7 for car parking and the £15 for the additional journey to Currock. The complainant's daughter had requested a receipt and he did hand her two receipts totalling £200.

- 2.10. It was pointed out to Mr Hoque that Code 6 of the Hackney Driver Code of Conduct states '*The driver shall not demand from any hirer of a Hackney Carriage a fare in excess of any previously agreed for that hiring between himself and the hirer*'. It was pointed out that he should not have expected his passengers to pay the parking charges incurred for using the airport car parks. (**Appendix 6**)
- 2.11. He was challenged as to why he switched the taxi meter on near Hardwick Circus on return to Carlisle when he conveyed the student from that location to Currock and then on to Newlaithes Avenue. He stated that he believed that the journey was additional to the fee agreed with Radio Taxi's and he had not been informed of any changes by his operator
- 2.12. Mr Hoque was also challenged as to why he had only handed receipts to Mrs Kehoe's daughter for the sum of £200 when in fact the total fare charged was £225. He could give no explanation to the reason for this.
- 2.13. Mr Hoque was informed that due to receiving a warning for a similar breach of overcharging, the issue would be referred to the Regulatory Panel for consideration.
- 2.14. Radio Taxis were contacted and have stated that they have been unable to trace the operator who the complainant spoke to regarding dropping the students off at their houses, and as far as they were aware the contract was between Newcastle Airport and Newlaithes Avenue. The complainant is adamant that this call was made and that the company agreed multiple drop off on return to Carlisle.

### 3. **LEGISLATION AND LEGAL COMMENTS**

- 3.1. Section 59 of the 1976 Act provides that a licensing authority shall not grant a Hackney Carriage Driver's Licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. Section 61(1)(b) enables the Panel to take action in respect of a driver if they consider that circumstances exist which mean that the driver is not, or is no longer, a fit and proper person to hold a driving licence. (**Appendices 7 & 8**)
- 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]*).

- 3.3. Having heard Mr Hoque and established the facts, Members need to consider whether Mr Hoque is, in light of these facts, a fit and proper person to hold a Hackney Driver licence. If not, it should be revoked. If the misconduct is not, however, enough to lead to that conclusion, the Panel may consider whether a lesser sanction is more appropriate and consider the options available to them.

#### **4. OPTIONS**

Members should reach a decision in line with the following options

- To award him 6 penalty points in accordance with the Hackney Carriage and Private Hire Enforcement Policy (**Appendix 9**)
- To suspend his Hackney Driver Licence for a period of time
- To revoke his Hackney Carriage Driver Licence
- To take no further action

**Contact Officer: Nicola Edwards**

**Ext 7025**

#### **Appendices**

#### **attached to report:**

1. Hackney Carriage Driver licence – HD162
2. Warning letter to Mr Hoque dated 29<sup>th</sup> January 2019
3. Warning letter to Mr Hoque dated 7<sup>th</sup> August 2019
4. Newcastle Airport – Short Stay Charges
5. Receipts for Airport transfer
6. Hackney Carriage Driver Code of Conduct
7. Section 59 Local Government (MP) Act 1976
8. Section 61 Local Government (MP) Act 1976
9. Hackney Carriage & Private Hire Enforcement Policy – Penalty Points Scheme

**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:**

- None

#### **CORPORATE IMPLICATIONS:**

**LEGAL – contained within report**

**FINANCE – None**

**EQUALITY – None**

**INFORMATION GOVERNANCE – None**





## Governance and Regulatory Services

**Corporate Director of Governance and Regulatory Services: M D Lambert LLB (Hons), MBA**

Civic Centre Carlisle CA3 8QG Telephone (01228) 817000

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Mr M N Hoque



Enquiries to: Licensing  
Direct Dial: 01228 817523  
email: [licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)

6 December 2019

Dear Mr Hoque

### **Regulatory Panel 4th December 2019**

I refer to your appearance before the above Panel in connection with a complaint alleging you overcharged passengers on 17<sup>th</sup> October 2019.

#### **The Decision**

That the Members of the Panel had carefully listened to the submissions by the Driver and the Licensing Officer and had taken full account of the evidence contained in Report GD.67/19.

Section 59 of the Local Government (Miscellaneous Provisions Act) 1976 provides that a Licensing Authority should only grant a Hackney Carriage Driver's Licence if it is satisfied that the driver is a fit and proper person to hold such a licence. Section 61 of the same Act enables the Regulatory Panel to take action in respect of a driver if they consider that circumstances exist which would mean that the driver is not or is no longer a fit and proper person to hold a Hackney Carriage Driver's Licence.

**The Regulatory Panel have decided to suspend the Driver's Hackney Carriage Driver's Licence for a period of six weeks.**

#### **Reasons for the Decision**

- a) The Regulatory Panel had concerns about the risk to the vulnerable children that had to walk home in the early hours of the morning;
- b) The Driver had charged an extra fare on top of the pre agreed fare;
- c) The receipt that the Driver had provided had not included the additional fare charge;
- d) The Driver charged the passengers for car parking and had not included this charge on the receipt;
- e) The Driver charged a tariff that was not actually a car park charge at the airport;
- f) This was the third complaint about the driver and the second for dishonesty received in

the 18month period that the Driver had held the licence;  
g) The Panel therefore did not find the Driver to be a fit and proper person.

You have the right of appeal against this decision, which must be lodged with the Clerk to the Justices, North Cumbria Magistrates Court, Rickergate, Carlisle within 21 days of receiving this letter. Evidence that the appeal has been lodged must be produced to the Licensing office if you wish to continue to drive a licensed vehicle after this 21 day period.

Should you not wish to appeal against this decision your suspension will commence after this 21 day period when you should surrender your identification badge to my Licensing Officer, or you may if you wish surrender your badge earlier and your suspension will start immediately my Licensing Officer is in possession of your badge.

Yours sincerely

Nicola Edwards  
Licensing Manager

### Penalty Points Scheme

	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application form / failing to provide relevant information	6	✓	✓
2	Failure to notify, in writing, the Council of a change of address within 7 calendar days	3	✓	✓
3	Refusal to accept hiring without reasonable cause	6-12	✓	✓
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓	
5	Plying for hire by Private hire drivers or Hackney Carriage drivers plying for hire outside the district	9	✓	✓
6	Private hire vehicle parking or waiting on a taxi rank	9	✓	✓
7	Inappropriate behaviour at a taxi rank	1-12*	✓	✓
8	Leaving a taxi unattended at a rank	4	✓	
9	Using unlicensed vehicle or using a licensed vehicle without insurance or without a valid periodical vehicle test	12	✓	✓
10	Failure to produce relevant documents within timescales when requested by an Authorised Officer	4	✓	✓
11	Unsatisfactory condition of vehicle, interior or exterior	4	✓	✓
12	Failure to undergo the Council's periodic vehicle test on time	6		✓
13	Failure to provide proof of insurance cover when requested	6	✓	✓
14	Failure to produce Hackney Carriage or Private Hire vehicle for re-testing when required	4		✓
15	Using a vehicle subject to a suspension order issued by an Authorised Officer or a police officer	12	✓	✓
16	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
17	Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions	4	✓	✓
18	Carrying more passengers than stated on the vehicle licence	6	✓	
19	Failure to display external licence plate in a fixed position or failure to display appropriate door signs	6	✓.	✓

	<b>Details of the misconduct</b>	<b>Maximum* Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>
20	Carrying an offensive weapon in the vehicle	12	✓	
21	Failure to notify a transfer of Private Hire or Hackney Carriage vehicle licence within 14 days of transfer	4		✓
22	Failure to carry fire extinguisher	4		✓
23	Failure to carry first aid kit	3		✓
24	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle	3	✓	✓
25	Failure to use authorised roof light	4	✓	✓
26	Failure to maintain records in a suitable form of the commence and cessation of work of each driver each day	4		✓
27	Failure to produce on request records of drivers' work activity	4		✓
28	Using a non approved or non-calibrated taximeter (HC)	6	✓	✓
29	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	12	✓	✓
30	Smoking or evidence of smoking in vehicle	4	✓	✓
31	Displaying any feature on private hire vehicle that may suggest that it is a Hackney Carriage	6	✓	✓
32	Using a vehicle, the appearance of which suggests that it is a Taxi	6	✓	✓
33	Failure to carry an assistance dog without requisite medical exemption certificate	12	✓	✓
34	Driver not holding a current DVLA licence	12	✓	✓
35	Failure to have the driver's badge clearly displayed	4	✓	
36	Failure to notify, in writing, a change in medical circumstances	6	✓	✓
37	Failure to observe rank discipline (HC)	3	✓	
38	Failure to maintain proper records of private hire vehicles	3		✓
39	Late payment of periodical vehicle test fee without prior agreement	3		✓

	<b>Details of the misconduct</b>	<b>Maximum* Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>
40	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
41	Misleading use of the words 'Taxi' or 'Cab' on advertising materials	3		✓
42	Failure to issue receipt on request.	6	✓	✓
43	Using a licensed vehicle in a dangerous condition	9	✓	✓
44	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓
45	Unsatisfactory behaviour or conduct of a driver.	1-12*	✓	
46	Failure to notify the Council in writing, of any motoring or criminal convictions within 21 days or conviction or cautions during period of current licence	6	✓	✓
47	Failure to behave in a civil and orderly manner, or bringing the trade into disrepute.	1-12*	✓	✓
48	Failure to provide reasonable assistance to a passenger	1-12*	✓	✓
49	Failure to display a correct up to date fare card (HC)	3	✓	✓
50	Carrying two or more separate fares without the appropriate consent	9	✓	
51	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4	✓	✓
52	Failure to attend punctually at appointed time and place without sufficient cause	4	✓	✓
53	A licensed vehicle with a bald or dangerous or defective tyre	4 per tyre	✓	✓
54	Waiting or stopping on a double yellow area, bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle	3	✓	
55	Driving whilst using a mobile phone	9	✓	
56	Appeal of points by way of Regulatory Panel	4-12*	✓	✓

\*- discretionary points up to a maximum of 6 points can be issued by officers, but greater awards of points can only be issued by the Regulatory Panel.

Officers may refer any mandatory award of points to Members where there are aggravating features to any case

Ticks indicate potential recipients of points for infringements, but are not limited to those only. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the circumstances of the case, but each case will be considered on its individual merits.



# 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 [<sup>F1</sup>—

(i)] that the applicant is a fit and proper person to hold a driver's licence; [<sup>F2</sup>and

(ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a hackney carriage; or]

[<sup>F3</sup>(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.]

[<sup>F4</sup>(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.]

[<sup>F5</sup>(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) [<sup>F6</sup>or section 109(1)] of that Act to drive in Great Britain a motor car.]

[<sup>F7</sup>(1A) .....]

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**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)

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- (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](#)

);



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**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)

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S.I. 2016/1037

,  
reg. 5(i)  
(with  
reg. 6  
)

**F5** By  
S.I. 1996/1974

,  
**reg. 5 Sch. 4 para. 2(5)**

it is provided that in s. 59 subsection (1A) shall be inserted after subsection (1)

**F6** Words in s. 59(1A)(b) inserted (5.9.1988) by  
S.I. 1998/1946

,  
**art. 3**

**F7** S. 59(1A) repealed (1.4.1998) by  
1997 c. 50

,  
s. 134(1)(2)

,  
Sch. 9 para. 34

,  
**Sch. 10**

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**Modifications etc. (not altering text)**

**C1** S. 59: functions of local authority not to be responsibility of an executive of the authority (E.)  
(16.11.2000) by virtue of  
S.I. 2000/2853

,  
reg. 2(1)

,  
**Sch. 1**

Table B4

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 59.



# 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;

[<sup>F1</sup>(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.

[<sup>F2</sup>(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)

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**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)

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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 [<sup>F3</sup>level 1 on the standard scale].

[<sup>F4</sup>(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).]

[<sup>F5</sup>(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 [<sup>F6</sup>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](#)

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**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)

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- );  
[S.I. 2016/1037](#)  
 ,  
[reg. 5\(i\)](#)  
 (with  
[reg. 6](#)  
 )  
**F3** Words substituted by virtue of  
[Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#)  
 ,  
**ss. 38**  
 ,  
 46  
**F4** [S. 61\(2ZA\)](#)  
 inserted (1.12.2016) by  
[Immigration Act 2016 \(c. 19\)](#)  
 ,  
[s. 94\(1\)](#)  
 ,  
**Sch. 5 para. 24(4)**  
 (with  
[Sch. 5 para. 55](#)  
 );  
[S.I. 2016/1037](#)  
 ,  
[reg. 5\(i\)](#)  
 (with  
[reg. 6](#)  
 )  
**F5** [S. 61\(2A\)\(2B\)](#) inserted (16.3.2007) by  
[Road Safety Act 2006 \(c. 49\)](#)  
 ,  
**ss. 52(2)**  
 ,  
 61  
 ;  
[S.I. 2007/466](#)  
 ,  
**art. 2**  
**F6** Words in [s. 61\(3\)](#) inserted (16.3.2007) by  
[Road Safety Act 2006 \(c. 49\)](#)  
 ,  
**ss. 52(3)**  
 ,  
 61  
 ;  
[S.I. 2007/466](#)  
 ,  
**art. 2**

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**Modifications etc. (not altering text)**

- C1** [S. 61](#): functions of local authority not to be responsibility of an executive of the authority (E.)  
 (16.11.2000) by virtue of

---

**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)

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S.I. 2000/2853

,

reg. 2(1)

,

**Sch. 1**

Table B4

**C2** S. 61 modified (27.11.2009) by

The Local Services (Operation by Licensed Hire Cars) Regulations 2009 (S.I. 2009/2863)

,

regs. 1

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**4**

Table (with

reg. 3

)

**C3** S. 61(1) modified (1.12.2016) by

Immigration Act 2016 (c. 19)

,

s. 94(1)

,

**Sch. 5 para. 56(5)**

;

S.I. 2016/1037

,

reg. 5(i)

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Section 61.

