



AGENDA

REGULATORY PANEL

WEDNESDAY 14 SEPTEMBER 2022 AT 4.00PM

In the Flensburg Room, Civic Centre, Carlisle, CA3 8QG

APOLOGIES FOR ABSENCE

To receive apologies for absence and notification of substitutions.

DECLARATIONS OF INTEREST (INCLUDING DECLARATIONS OF “THE PARTY WHIP”)

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.

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.

MINUTES OF PREVIOUS MEETINGS

Pages 1 - 4

To note that Council, at its meeting on 13 September 2022, received and adopted the minutes of the meeting held on 6 July and 21 July 2022. The Chair will sign the minutes [Copy minutes in Minute Book Vol 49(2)].

The Chair will move the minutes of the meetings held on 17 August 2022 as a correct record. The only part of the minutes that may be discussed is their accuracy. (Copy minutes herewith).

PART A

To be considered when the Public and Press are present

A.1 PRIVATE HIRE OPERATOR

Pages 5 - 24

The Licensing Manager to submit a report regarding the use of an unlicensed vehicle and drivers by a Private Hire Operator.

(Copy Report GD.47/22 Amended herewith)

PART B

To be considered in Private

B.1 PRIVATE HIRE OPERATOR

Pages 25 - 64

This report is not for publication by virtue of Paragraphs 1 and 7 of Schedule 12A to the Local Government Act 1972 as it contains information relating to any individual and Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The Licensing Manager to submit the exempt appendices relating to report GD.47/22 regarding the use of an unlicensed vehicle and drivers by a Private Hire Operator.

(Copy Report GD.53/22 herewith)

PART A

To be considered when the Public and Press are present

A.1 PRIVATE HIRE OPERATOR

The Licensing Manager to submit a report regarding the use of an unlicensed vehicle and drivers by a Private Hire Operator.

(Copy Report GD.47/22)

A.2 HACKNEY CARRIAGE DRIVER – DRIVING UNLICENSED VEHICLE

Pages 65 - 76

The Licensing Manager to submit a report regarding the use of an unlicensed vehicle by a Hackney Carriage Driver.

(Copy Report GD.51/22 Amended herewith)

PART B

To be considered in Private

B.2 SUSPENSION OF HACKNEY CARRIAGE DRIVER LICENCE

Pages 77 - 93

This report is not for publication by virtue of Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 as it contains information relating to any individual.

The Licensing Manager to present a report regarding the suspension of a Hackney Carriage Driver Licence.

(Copy Report GD.49/22 herewith)

Members of the Regulatory Panel:

Conservative – Mrs Bowman, Ms Ellis-Williams (Chair), Mrs Mitchell, Meller, Morton, Shepherd, Bainbridge (sub), Mrs Mallinson (sub), J Mallinson (sub)

Labour – Alcroft, Sunter, Dr Tickner, Miss Whalen (Vice Chair), Birks (sub) Patrick (sub), Miss Sherriff (sub)

Independent and Liberal Democrat - Pickstone, Allison (sub)

Independent Member for Stanwix and Houghton - Nedved

Enquiries to democraticservices@carlisle.gov.uk



Regulatory Panel

Date: Wednesday, 17 August 2022

Time: 16:05

Venue: Flensburg Room

Present: Councillor Ruth Alcroft, Councillor Mrs Marilyn Bowman, Councillor Ms Jo Ellis-Williams, Councillor Keith Meller, Councillor Mrs Linda Mitchell, Councillor David Morton, Councillor Paul Nedved, Councillor Tim Pickstone, Councillor Peter Sunter, Councillor Miss Jeanette Whalen

Officers: Senior Lawyer
Licensing Manager
Environmental Health Officer

Also Present: Ms Britton, Legal Services Intern

RP.32/22 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Shepherd.

RP.33/22 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

RP.34/22 PUBLIC AND PRESS

It was agreed that the item of business in Part A be dealt with in public; there were no items of business in Part B to be dealt with when the public and press were excluded.

RP.35/22 AGENDA

RESOLVED - That Agenda Item B.2 - Private Hire Operator would be taken as the first agenda item.

RP.36/22 MINUTES OF PREVIOUS MEETINGS

RESOLVED - 1) It was noted that Council, at its meeting on 19 July 2022, received and adopted the minutes of the meeting held on 20 April 2022. The Chair signed the minutes.

2) That the minutes of the meetings held on 6 July and 21 July (special) be agreed as a correct record.

RP.37/22 PUBLIC AND PRESS

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraph numbers (as indicated in brackets against the minutes) of Part 1 of Schedule 12A of the 1972 Local Government Act.

RP.38/22 PRIVATE HIRE OPERATOR

(Public and Press excluded by virtue of Paragraph 7)

The Licensing Manager submitted a report regarding Private Hire Operator Licences (GD.47/22).

The Operator was in attendance.

The Senior Lawyer informed the Operator that he had the right to be represented, he confirmed that he would like to be represented.

The Panel discussed the options available to them and agreed to defer the matter to the next scheduled meeting on 14 September 2022.

RESOLVED - That report GD.47/22 Private Hire Operator be deferred to the next meeting of the Regulatory Panel scheduled for 14 September 2022.

RP.39/22 REFUSAL OF DOG BREEDERS LICENCE

(Public and Press excluded by virtue of paragraph 1)

The Environmental Health Officer submitted a report regarding the refusal to grant a dog breeder's licence (GD.46/22).

The Environmental Health Officer reported that the Dog Breeder had emailed him to inform him she would not be in attendance at the meeting and that she was no longer breeding dogs and did not need a licence. The Environmental Health Officer contacted the Breeder requesting formal confirmation that they were withdrawing the application and this had not been received.

The Regulatory Panel noted that formal confirmation had not been received and agreed to consider the application before them.

The Environmental Health Officer reported that the Dog Breeder had been granted a a one year licence which expired in October 2021. The licence permitted the breeding of two bitches at a specific address. The Dog Breeder submitted a renewal application in March 2022, the dogs listed on the application varied from those on the original licence and no application to vary the licence had been submitted. No microchips details had been provided, despite numerous requests.

A number of issues were raised including concerns regarding the number of dogs intended for breeding, the location of a dog, dogs not being included on the application. During an inspection some dogs were present, some dogs on the application were not and their location was unknown. The inspection, with a vet, found each dog to have notable health concerns including a heart condition, skin condition and eye conditions.

The Dog Breeder was unable to produce the records as required as a condition of the licence. There was also concern that the Dog Breeder did not permanently reside at the licenced address, with evidence showing she lived out of the County. This resulted in the dogs being cared for by an unknown individual and there was no clarity on where the dogs lived.

The Environmental Health Officer reported that the Dog Breeder had been given six weeks to work with the Council to provide the required records. Documents were produced in part, however, the most important documents, which proved the health of the animals had been approved by a vet for fitness to breed, had not been provided. The Dog Breeder had been given additional time to produce the records, with a deadline of 15 July 2022, some six months after the application had been received. The Dog Breeder had failed to provide a health certificate for one of the dogs and had deliberately attempted to deceive the Council by providing only parts of the care plan documents.

The Dog Breeder had been informed, at the time of the first application, of the requirements of licence. She had been rated 'high risk' at the time and was given a one year licence.

The Environmental Health Officer responded to questions, clarifying the following:

- It was unknown if the Breeder was caring for the dogs at the address on the application or if someone else was;
- There was no national database to enable Local Authorities to share information on Dog Breeders;
- The Breeder would be able to apply for a licence elsewhere in the Country.

The Regulatory Panel discussed the application and

RESOLVED - That the Panel had carefully considered and read the evidence in report GD.46/22; considered the presentation by the Council's Environmental Health Officer and listened to the responses.

The Regulatory Panel noted that the Dog Breeder had applied to renew the licence for two specific bitches at a specified address. The Panel noted that the Dog Breeder had indicated that she no longer required a licence but formal confirmation of this was not received.

Under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 the Regulatory Panel had grounds to refuse to grant the licence renewal. The Authority had to consider whether the licence conditions would be met, taking into account the applicant's conduct as the operator of a licensable activity to which the application for the grant or renewal related; whether the applicant was a fit and proper person to be considered an operator and any other relevant circumstances.

The Panel had decided to refuse the application for a licence and specified that the applicant must wait a period of two years before re-applying.

The reasons for the decision were:

1. The Dog Breeder had many breaches of the Animal Welfare (Licensing and Activities Involving Animals) (England) Regulations 2018 as set out in section 2 of report GD.46/22.
2. The Panel felt that the Breeder had concealed information in an attempt to deceive the Council with regards to the health certificate required by the vet.
3. The Dog Breeder did not attend the Panel and did not formally confirm that a licence was no longer required despite several requests to do so.

The Regulatory Panel also requested that the Environmental Health Officer contact the relevant Local Authority where the Dog Breeder resided to inform them of the Panel's decision.

The Dog Breeder would receive written confirmation of the Panel's decision.

The Meeting ended at: 16:35

Meeting Date: 14th September 2022
Portfolio: Finance, Governance and Resources
Key Decision: No
Within Policy and Budget Framework NO
Public / Private Public

Title: PRIVATE HIRE OPERATOR
Report of: Corporate Director, Governance & Regulatory Services
Report Number: GD.47/22 *amended*

Purpose / Summary:

The purpose of this report is to consider the Private Hire Operator Licences that are held by Mr Phil Taylor who trades as Coast to Coast and Carlisle 247365. The report details conduct which Members may consider renders Mr Taylor unfit to hold an operators licence.

Recommendations:

That Members consider whether any to take any action on the Private Hire Operator Licence(s) in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and detailed in the Options at Section 6

Tracking

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

1. LICENSING BACKGROUND

1.1. Mr Philp Taylor holds a Private Hire Operator Licence to Operate under the trade name Coast to Coast Transfers Ltd (PO030 **Appendix 1**). He also holds a Private Hire Operator Licence for Carlisle 247365 (PO029 **Appendix 2**). Both operators have a 5 year licence that were issued on 29th April 2021. The details in this report relate to activity on these licences.

1.2. Mr Taylor also holds or is involved in companies that hold, the following licences

- HD130 Hackney Carriage Driver Licence
- PD072 Private Hire Driver Licence
- H147 Hackney Carriage vehicle
- H148 Hackney Carriage Vehicle
- H457 Hackney Carriage Vehicle
- P609 Private Hire Vehicle
- P621 Private Hire Vehicle
- P652 Private Hire Vehicle
- P653 Private Hire Vehicle
- P668 Private Hire Vehicle
- P672 Private Hire Vehicle
- P680 Private Hire Vehicle

1.3. Mr Taylor currently has 4 penalty points due to the “Unsatisfactory Condition of a Vehicle interior or exterior” relating to the Private Hire vehicle P652 (letter dated 31/8/21 attached at **Appendix 3**).

2. PRIVATE HIRE OPERATORS

2.1. A private hire vehicle (PHV) can only be despatched by a private hire operator (PHO). That is, a person who holds an operator’s licence under the Local Government (Miscellaneous Provisions) Act 1976.

2.2. A PHV must be driven by a licensed Private Hire Driver (PHD) and all three licences (operator, vehicle and driver) must be issued by the same local authority.

2.3. A PHO licence is issued for a period of 5 years and the Council determines whether the applicant is a fit and proper person to hold an operator’s licence and in the case of an individual or partnership, that the person(s) is not disqualified by reasons of the applicant’s immigration status.

2.4. The applicant is required to provide information on person(s) who are or will be concerned in the operating of vehicles and bookings (company directors, co-owners,

secretary, receptionists) and must provide a basic criminal disclosure certificate for each person.

2.5. A PHO can be subject to conditions and a copy of the conditions attached to the licences PO029 and PO030 which were issued in April 2021 are attached at

Appendix 4.

2.6. The Council have the power to suspend, revoke or refuse to renew any Operator's Licence for any reasonable cause including:

- a) The committing by the licensee of any offence under or non-compliance with any of the provisions of Part II of the Local Government (MP) Act 1976.
- b) Any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence
- c) Any material change since the licence was granted in any of the circumstances of the operator based on which the licence was granted.
- d) The operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty.
- e) Any other reasonable cause

2.7. A PHO is required to keep a record of every journey they operate detailing:

- a) The time and date of the booking.
- b) The name and address of the hirer.
- c) How the booking was made (i.e.. by telephone, personal call etc.)
- d) The time of pick-up.
- e) The point of pick-up.
- f) The destination.
- g) The time at which a driver was allocated to the booking.
- h) The registration number and licensing number of the vehicle allocated for the booking.
- i) The driver allocated the booking.
- j) Remarks (including details of any sub-contract)

2.8. The above is also required when a PHO despatches a Hackney Carriage vehicle.¹

2.9. A person or company can hold more than one operator licence but must keep separate records.

¹ City of Carlisle PHO Conditions April 2016 "*General – Where a Hackney Carriage is allocated a private hire booking these terms and conditions shall also apply*"

3. CURRENT ISSUE

- 3.1. Mr Taylor applied for a Private Hire Operator's Licence for Coast to Coast on 29th March 2021. The application was for up to 5 vehicles and Mr Taylor indicated on the application form that he would be operating 3 vehicles. (**Appendix 5**)
- 3.2. Mr Taylor did not declare any other individual to be involved in the operating of vehicles or any co-owners, directors or secretary for Coast to Coast.
- 3.3. The primary purpose of Coast to Coast Transfers Ltd is to undertake contracts on behalf of Cumbria County Council School Transport Service. This involves taking school children from home to school and return. The contracts are tendered and then awarded up to a 4 year term.
- 3.4. On 15th June 2022, the Licensing Manager contacted the Transport Lead at Cumbria County Council as information had been received that Mr Taylor had one of the contracts terminated due to the use of an unlicensed vehicle.
- 3.5. The Transport Lead confirmed that information had been received that an unlicensed Jaguar, registration TX1 247, was observed at a Cumbrian School on 6th and/or 7th June 2022 fulfilling Mr Taylor's contract.
- 3.6. The Transport Lead stated that Mr Taylor had been contacted and he admitted that the unlicensed vehicle had been used and was driven by Mr Jason Barnes, a licensed Hackney Carriage Driver. Mr Taylor stated that this was his private vehicle and was insured for hire and reward. The contract was immediately terminated due to Mr Taylor's admission of breach of contract and no further action was taken nor was the Licensing Authority informed.
- 3.7. Ms McHale agreed to send the list of contracts that Mr Taylor/Coast to Coast had, and then arrangements would be made to undertake some general compliance visits and the issue of operating an unlicensed vehicle would be addressed by the Licensing Authority with Mr Taylor.
- 3.8. Information was provided by Cumbria County Council of 33 contracts that were awarded to Mr Taylor/Coast to Coast Transfers Ltd (**Appendix 6** Report GD53.22).
- 3.9. Before any general visits were arranged or Mr Taylor contacted, further information was received by the Licensing Authority that an unlicensed vehicle and an unlicensed driver were fulfilling a school transport contract to take children to and from another Cumbrian School.
- 3.10. It was agreed that a joint compliance visit (Transport Team and Licensing Authority) would be undertaken at the school to check the three providers who are allocated contracts for the School, one of which was Mr Taylor's.

- 3.11. The visit took place on the morning of 27th June 2022. The Licensing Manager attended alongside an Officer from the Transport Department, Cumbria County Council.
- 3.12. The first two vehicles and drivers that arrived at the School and were checked as being compliant. The third vehicle that attended was identified by the teacher on duty as it approached the school.
- 3.13. The vehicle contained 3 or 4 primary school children who were taken into school by the teacher. The driver was questioned and identified herself as JT who said she was doing a favour for her relative as the normal driver was poorly. JT stated at first it was a one off but after further questioning admitted that she had done it “maybe twice” before.
- 3.14. It is understood that the contract was terminated by Cumbria County Council later that day.
- 3.15. Mr Taylor was requested to provide operator records for Coast to Coast to the Licensing Department on 7th July 2022. Eight exercise books were produced and a copy of the records for the contract for the route can be found at **Appendix 7 & 8 in the private report GD.53/22**. It should be noted that Mr Taylor had a total of 33 contracts at this time and provided records for only 8 of these.
- 3.16. Mr Taylor admitted that an unlicensed driver and vehicle had been used to undertake the contract on 27th June 2022 and that it was his relative in her own vehicle. He then admitted that the usual driver was CT, another relative, who also did not hold the required private hire licence. He is also now aware that CT does not hold a DVLA Driving Licence as he was banned from driving in April 2022 for 12 months for driving under the influence of drugs.
- 3.17. Due to potential offences being committed it was agreed that Mr Taylor would be interviewed in accordance with PACE (i.e. under caution). This was arranged for 15th July 2022.
- 3.18. Mr Taylor attended the PACE interview with his solicitor Chris Thoms, LT Law Centre and was interviewed by Nicola Edwards, Licensing Manager and Alex Kemp, Licensing Officer.
- 3.19. The record of interview can be found at **Appendix 9 of report GD.53/22**.
- 3.20. In summary Mr Taylor:
- Admits he does not check the Private Hire/Hackney Carriage Driver licences of the drivers that he operates.
 - Admits that he did not check who the driver and/or vehicle was that undertook the journeys he operated and despatched.

- Did not disclose on his application that Brian Dorrance was a Director of Coast to Coast.
- Provided records of 8 private hire vehicles he operates, whereas the licence is for a maximum of 5. He also despatches a number of Hackney Carriage vehicles.
- Did not provide records for the Hackney Carriage vehicles which he has operated from Coast to Coast.
- Admits that he loaned his personal vehicle, which was not licensed as a Private Hire or Hackney Carriage vehicle, to Jason Barnes, a licensed Hackney Carriage Driver, to undertake a school contract from Workington to Kirby Moor School in the beginning of June 2022.
- Admits that the contract to a specific School with Cumbria County Council was terminated by the Council due to the use of an unlicensed vehicle.
- Admits that CT undertook fares operated by Coast to Coast in the licensed vehicle P658 (registration number MA15 YDS) from September 2021 to February 2022. (According to the Operator records this vehicle undertook 2 other school transports in this period)
- Admits that CT undertook fares operated by Coast to Coast under a Education Contract in the licensed vehicle P658 from February 2022.
- Is aware that CT does not hold a Private Hire Driver Licence but states he did not know this at the time he was working for him.
- Is aware that CT does not hold a DVLA Driver Licence as he was banned from driving for 12 months due to driving under the influence of drugs but states he did not know this at the time he was working for him.
- States he was not aware at the time that JT undertook the contract to Shankhill School on 27th June 2022.
- Admits that his record keeping is not accurate as he does not check or record the vehicle/driver that has undertaken each journey operated by Coast the Coast.

Interview with Jason Barnes

3.21. Jason Barnes, Hackney Carriage Driver, was interviewed on 27th July 2022 and confirmed that Mr Taylor contacted him in June to ask him to do undertake a School Transport Contract as he was struggling to fulfil the contract.

- 3.22. Mr Barnes was provided with a licensed white saloon vehicle from Mr Taylor, however on the first morning (possibly 6th June) the radiator started smoking and Mr Barnes reported this to Mr Taylor.
- 3.23. Later that day Mr Taylor provided Mr Barnes with a blue Jaguar, registration TX1 247 to drive. Mr Barnes used this vehicle for the afternoon pick up and again the following morning.
- 3.24. He was informed later that second day (7th June) by Mr Taylor that he (Mr Barnes) could not do the job any longer as his County Council badge had expired.
- 3.25. Mr Barnes was informed during the interview that the vehicle was not licensed and that it was an offence to drive an unlicensed private hire vehicle. Mr Barnes stated that he did not know the vehicle was not licensed and assumed that it was due to the registration (TX1 247) and because Mr Taylor provided the vehicle for him.

Interview with CT

- 3.26. CT was invited to attend a PACE interview on 29th July 2022 and then 3rd August 2022 but failed to attend either date. A third date has been offered to CT, 8th September 2022 and an update will be provided at the meeting.

Interview with JT

- 3.27. JT was invited to attend a PACE interview on 29th July 2022 ,this was rearranged at her request for 4th August 2022 but she failed to attend. A third date has been rearranged with JT for 8th September 2022 and an update will be provided at the meeting.

Operator Check of Carlisle 247365

- 3.28. As stated earlier in the report, Mr Taylor also holds a Private Hire Operator Licence for Carlisle 247365 which is located at Fisher Street, Carlisle.
- 3.29. The application for the PHO licence is attached at **Appendix 10**.
- 3.30. An inspection was arranged for 27th July 2022 of the records for the operation to check compliance and record keeping.
- 3.31. Mr Taylor is the licence holder for Carlisle 247365 and declared on his application dated 29th March 2021 (the same day as the Coast to Coast application) that Lesley Wood and Brian Dorrance are persons involved in the company.
- 3.32. The operator licence is for up to 10 vehicles.
- 3.33. Carlisle 247365 uses a computer system for its bookings "Taxi Admin Operator" and Mr Taylor was able to provide details of bookings that had been taken through the telephone since 3rd May 2021. Bookings prior to this date were not available.

- 3.34. The booking records did not contain all the information required under the operator licence (i.e. the name and address of the booker), but did provide a historic record of bookings.
- 3.35. Mr Taylor has not checked the licence status of the drivers and vehicles that Carlisle 247365 operators, although he states that he is currently undertaking this task following the issues that have arisen with the Coast to Coast operation.
- 3.36. Mr Taylor states that the office at Fisher Street is not staffed 24 hours a day. Brian Dorrance has a computer system at his home at Chapelknowe and takes early morning calls. The office is staffed from 10am and the end time varies from day to day. The calls will be transferred back to Mr Dorrance and during through the night calls are diverted to a driver, Mr Erkan Colak.
- 3.37. There are concerns that these arrangements do not meet the requirements placed on the Operator, either via conditions or legislation.
- 3.38. Mr Dorrance lives in Chapelknowe, Dumfries and Galloway. Mr Taylor states that the Carlisle 247365 number is diverted to him each morning and evening. He takes the bookings and despatches the vehicles, albeit via the computer system.
- 3.39. The applicant is to specify on their application for a Private Hire Operator Licence the address from which it is intended to carry on business in connection with private hire vehicles. Mr Taylor states on the application form for Carlisle 247365 that this is 4 Fisher Street, Carlisle and makes no reference to bookings taken at Chapelknowe, outside the licensed district.
- 3.40. The second concern relates to bookings taken by Mr Colak, a licensed driver, who takes the calls during the night whilst he is driving. He then coordinates the despatching and fulfilling of the booking via a WhatsApp group of drivers. There is no record of the booking kept by Carlisle 247365 which is a condition of their licence and required by legislation. Mr Taylor states that he did not realise that a record of bookings for Hackney Carriage vehicles taken by Carlisle 247365 were required.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – ENFORCEMENT & PENALTY POINTS

- 4.1. The primary objective of the penalty point's scheme is to improve levels of compliance and help improve the standards, safety and protection of the travelling public.

- 4.2. Penalty points remain on the licensee's record for two years. The period is a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee.
- 4.3. Where a licensee accumulates 12 or more penalty points in any 24 month period, the matter will be referred to the Council's Regulatory Panel for that Panel to decide whether the licensee remains a fit and proper person. The Regulatory Panel may then suspend or revoke a licence, or issue a warning to the Licensee, depending on the circumstances.
- 4.4. Under the above policy, Mr Taylor has committed several misdemeanours which would be subject to Penalty Points. Two of which would have resulted in referral to the Regulatory Panel. This can be summarised as:

Misdemeanour	Penalty Points	Coast to Coast	Carlisle 247365
Providing false or misleading information on licence application form / failing to provide relevant information	6	Yes	Yes
Using unlicensed vehicle or using a licensed vehicle without insurance or without a valid periodical vehicle test	12	Yes	No
Failure to produce on request records of drivers' work activity	4	Yes	Yes
Driver not holding a current DVLA licence	12	Yes	No
Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6	Yes	Yes

- 4.5 Alongside the specified misdemeanours both companies that Mr Taylor operate have failed to check the licence status of drivers and vehicles and Coast to Coast has operated with unlicensed drivers.

5. LEGISLATION AND LEGAL COMMENTS

5.1. Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may suspend or revoke an operator's licence on the following grounds:

- (a) any offence under, or non-compliance with, the provisions of this Act;
- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
- (d) any other reasonable cause.

5.2. Section 56 sets out the record keeping requirements of a Private Hire Operator:

- (1) For the purposes of this Part of this Act every contract for the hire of a private hire vehicle licensed under this Part of this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.
- (2) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection.
- (3) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep such records as the council may, by conditions attached to the grant of the licence, prescribe of the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or to any constable for inspection.
- (4) A person to whom a licence in force under section 55 of this Act has been granted by a district council shall produce the licence on request to any authorised officer of the council or any constable for inspection.
- (5) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence.

- 5.3. Licensing authorities have a duty to ensure that any person (or persons) to whom they grant a private hire operator licence is a 'fit and proper' person to be a licensee.
- 5.4. The Council's Hackney Carriage and Private Hire Licensing Policy 2022-2027 notes that when assessing the fitness and propriety of an Operator the Council will have regard to the following
- Criminal record including convictions, cautions, warnings and reprimands.
 - Demeanour, general character, non-criminal behaviour, honesty and integrity.
 - Previous conduct.
 - Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices, etc).
- 5.5. It may be helpful for Members when considering whether an applicant or licensee is fit and proper to ask yourself the following question:
- Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle **operated and despatched** by this person at any time of day or night?
- 5.6. If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a Private Hire Operator Licence.
- 5.7. Licensing authorities have to make difficult decisions; however, the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Committee or delegated officer are only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.
- 5.8. 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]*).
- 5.9. Members should consider that the impact on a person's family of losing or not obtaining a licence is not a relative consideration and cannot be taken into account. *Leeds City Council v Hussain [2003] RTR 13 DC & Cherwell DC v Anwar [2012] RTR Admin Crt*

6. OPTIONS

- To revoke the PH Operator Licence PO029 (Carlisle 247365) in accordance with Section 62(1) of the Local Government Miscellaneous Provisions Act 1976
- To revoke the PH Operator Licence PO030 (Coast to Coast) in accordance with Section 62(1) of the Local Government Miscellaneous Provisions Act 1976
- To suspend the PH Operator Licence PO029 (Carlisle 247365) in accordance with Section 62(1) of the Local Government Miscellaneous Provisions Act 1976
- To suspend the PH Operator Licence PO030 (Coast to Coast) in accordance with Section 62(1) of the Local Government Miscellaneous Provisions Act 1976
- To take no further action

Contact Officer: Nicola Edwards

Ext: 7025

Appendices

attached to report:

1. Copy of Licence PO030
2. Copy of Licence PO029
3. Letter to Mr Taylor dated 31/08/21
4. Private Hire Operator Conditions

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 – 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 Operator Licence **PO030**

Operator:

Philip TaylorLicensed to operate up to **5** licensed private hire vehiclesValid from: **29 Apr 2021** to **28 Apr 2026**

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**

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

Licensing Manager

Dated: **02 Dec 2021**

City of



Carlisle

Private Hire Operator Licence **PO029**

Operator:

Philip TaylorLicensed to operate up to **10** licensed private hire vehiclesValid from: **29 Apr 2021** to **28 Apr 2026**

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**

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

Licensing Manager

Dated: **01 Dec 2021**



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

Document Exchange Quote DX 63037 Carlisle Type talk 18001 01228 817200

Mr P Taylor

Enquiries to: Licensing
Direct Dial: 01228 817523
email: licensing@carlisle.gov.uk

31 August 2021

Dear Mr Taylor

Following my telephone conversation with you I write regarding the unsatisfactory condition of the licensed vehicle P652 when it was presented to the Council's garage for its periodic test on 27th August 2021. I enclose photographs taken of the vehicle at that time.

You stated that the vehicle is not currently in use, however the Council's test determines whether the vehicle is considered fit for purpose, both mechanically and cosmetically. A licensed vehicle must be kept in exceptional condition during the period of its licence and on this occasion this vehicle has fell below the standards expected. You stated that the vehicle would receive a full valet prior to being retested this week.

In accordance with the Hackney Carriage and Private Hire Licensing Enforcement Policy which commenced in April 2019 the matter will be dealt with by way of the issuing of **4 penalty points** to you under the misconduct "*Unsatisfactory condition of vehicle, interior or exterior*".

The penalty points will remain on your record for 24 months from today and if you accumulate 12 or more penalty points in a 24 month period then the matter will be referred to the Regulatory Panel.

If you have a dispute regarding the issuing of the penalty points then you are able to make an appeal to the Regulatory Panel and this should be made in writing within 21 days of the date of this letter. The Regulatory Panel will have the discretion to reduce, remove or increase the number of penalty points applied to the licence.

Yours sincerely

Nicola Edwards
Licensing Manager

CITY OF CARLISLE
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
PRIVATE HIRE VEHICLE OPERATORS LICENCES
CONDITIONS

GENERAL

The Operator of any Hackney Carriage or Private Hire vehicle shall observe and perform all the following terms and conditions which shall be attached to and form part of his Private Hire Vehicle Operator's Licence. Where a Hackney Carriage is allocated a private hire booking these terms and conditions shall also apply:-

1. Every contract for the hire of a licensed vehicle shall be deemed to be made with the Operator who has accepted the booking for the vehicle whether or not he himself provides the vehicle.
2. This Licence is pursuant to the Operator named herein and the Operator may not in any circumstances assign it or in any way part with the benefit thereof to any other person.
3. The Operator shall forthwith withdraw from operation any vehicle in respect of which the Licence is for any reason revoked suspended or not renewed.
4.
 - (a) The Operator shall not allow, or shall cease to allow forthwith, any person who does not hold or ceases to hold a current Hackney Carriage/Private Hire Vehicle Driver's Licence to drive any vehicle operated by him.
 - (b) Before allowing any person to drive a licensed vehicle the Operator shall first inspect and retain his current years Hackney Carriage/Private Hire Driver's Licence and failure to take such action shall be presumed to imply that the Operator had notice of any matter which would have been drawn to his attention should such action have been taken.
 - (c) The vehicle shall be classed as a Licensed Vehicle at all times whether or not it is under hire.
5. The Council shall have power to suspend, revoke or refuse to renew any Operator's Licence for any reasonable cause including:-

- (a) the committing by the Licensee of any offence under or non-compliance with any of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 including failure to comply with any part of these conditions;
 - (b) any conduct on the part of the Operator which appears to the Council to render him unfit to hold an Operator's Licence which may include the conviction for any offence whatever;
 - (c) where there has been a material change in the circumstances of the Operator on the basis of which the Licence was granted.
- 6.
 - (a) The Operator shall ensure that all company directors and staff Involved in bookings are 'fit and proper' and have undertaken a basic criminal disclosure check for each member' (apply through www.disclosurescotland.co.uk)
 - (b) If during the currency of this Licence any of the particulars supplied in relation to the Operator's application shall change, details of the change shall forthwith be notified in writing to the Council.
- 7. The Council may at any time add, delete or alter any of the foregoing conditions and upon notice thereof having been served upon the Licensee such additions, deletions or alterations shall as from the date of such service be deemed to be incorporated herein.
- 8. Any notice required to be served by the Council under this Licence or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by them by prepaid post to or left at the last known address of the premises from which the Licensee operates.
- 9. Records
 - (1) The record required to be kept by the Operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book, the pages of which are numbered consecutively and the Operator shall enter or cause to be entered therein, before the commencement of each journey, the following particulars of every booking of a Licensed Vehicle invited or accepted by him:-
 - (a) The time and date of the booking.
 - (b) The name and address of the hirer.
 - (c) How the booking was made (ie. by telephone, personal call etc.)
 - (d) The time of pick-up.

- (e) The point of pick-up.
 - (f) The destination.
 - (g) The time at which a driver was allocated to the booking.
 - (h) The registration number and licensing number of the vehicle allocated for the booking.
 - (i) The driver allocated the booking.
 - (i) Remarks (including details of any sub-contract).
- (2) The Operator shall also keep records of the particulars of all Private Hire Vehicles operated by him, which particulars shall include details of the owners, registration numbers and drivers of such vehicles, together with any radio call sign used.
- (3) All records kept by the Operator shall be preserved for a period of not less than two years following the date of the last entry.
- (4) This Licence and any book, register or record required to be kept under the terms of this Licence shall be produced on request to any authorised Officer of the Council and to any Police Constable for inspection.
10. (a) The Operator when accepting a booking shall communicate to the hirer the Licence number of the vehicle allocated to the booking.
- (b) The Operator shall inform the driver of the allocated vehicle the name of the hirer.
- (c) The Operator shall ensure that only the vehicle allocated to the hirer at the time of the booking is boarded by the hirer.

11. Standard of Service

The Operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:-

- (a) Ensure that when a Licensed Vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
- (b) Ensure that a despatched vehicle is 'fit for the purpose of the hirer' e.g. correct number of seats for passengers, suitable size vehicle to accommodate wheelchair etc.

- (c) Keep clean, adequately heated, ventilated and lit any premises which the Operator provides and to which the public have access, whether for the purpose of booking or waiting.
 - (c) Ensure that any waiting area provided by the Operator has adequate seating facilities.
- 12. (a) Complaints - The Operator shall immediately upon receipt notify the Council in writing of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his business and of the action (if any) which the Operator has taken or proposes to take in respect thereof.
- (b) Lost Property – The Operator shall respond to lost and found property requests and inform customers and drivers that Police are under a duty to receive found 'identifiable property' (mobile phone, bank card, camera etc) but it is a drivers responsibility to try and re-unite any found property with the owner in the first instance as per a hackney driver's code of practice and private hire driver's terms and conditions

13. Convictions

The Operator shall within seven days disclose to the Council in writing details of any conviction imposed on him (or if the Operator is a company, on any of its directors and staff) during that period of the Licence.

14. Conduct of Drivers

- 1. The Operator shall ensure at all times that a driver in charge of a Licensed Vehicle shall not:-
 - (a) station his Private Hire vehicle on any place provided as a stand for Hackney Carriage vehicles or any Licensed vehicle in an area of the highway marked out as a loading bay or bus stop;
 - (b) station his Private Hire vehicle for hire or ply for hire or solicit any person to hire or to be carried for hire or reward on any road or in any public place or in any place readily accessible and visible from a road;
 - (c) cause or procure any person to tout or solicit on a road or other public place any person to hire or be carried for hire in any Private Hire Vehicle or offer that vehicle for immediate hire while the driver of that vehicle is on a road or other public place;
 - (d) accept any offer for the hire of the vehicle whilst the driver of that vehicle is on a road or other public place except where such offer

is first communicated by the Operator to the driver by a telephone or by two way radio system (other than CB Radio) fitted to that vehicle;

- (e) station any vehicle on a public highway in such a manner so that it is double parked or otherwise obstructs the free flow of traffic and this condition shall apply at all times and including whilst and before and after the hirer is boarding or alighting from the vehicle;
 - (f) station any vehicle so as to obstruct the exits or fire exits of any place licensed for regulated entertainment or to station the vehicle in such a way that a condition attached to the Premises Licence as to access by emergency vehicles cannot be complied with.
2. The Operator shall in general ensure that all drivers employed by him comply with the terms and conditions for the time being attached by the Council to their Hackney Carriage/Private Hire Vehicle Drivers Licences.
 3. In these conditions the term "him" shall include "her" as the case may be.

Meeting Date: 14th September 2022
Portfolio: Finance, Governance and Resources
Key Decision: No
Within Policy and Budget Framework NO
Public / Private Public

Title: HACKNEY CARRIAGE DRIVER – Driving Unlicensed Vehicle
Report of: Licensing Manger
Report Number: GD.51/22

Purpose / Summary:

Jason Barnes is a Licensed Hackney Carriage Driver. Information was received during an investigation into a Private Hire Operator that Mr Barnes used an unlicensed vehicle for a pre-booked journey to fulfil the Operators contract with Cumbria County Council's School Transport. 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 Barnes 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. LICENSING BACKGROUND

- 1.1. Jason Barnes has held a Hackney Carriage Driver Licence (HD755) since 27th January 2005 (**Appendix 1**).
- 1.2. Mr Barnes has no penalty points under the Hackney Carriage and Private Hire Licensing Policy on his record.

2. ISSUE TO BE CONSIDERED

- 2.1. During the investigation into Coast to Coast Operator (GD.47/22) it was brought to the attention of the Licensing Authority that Jason Barnes had used an unlicensed vehicle to undertake a School Contract on or around the 6 or 7 June 2022.
- 2.2. Mr Barnes was interviewed on 27th July 2022 and he confirmed that he undertook the school contract from Workington to Kirkby Moor School for Coast to Coast (Mr Phillip Taylor) for one and a half days in the beginning of June. The job was due to be for approximately a month.
- 2.3. Mr Barnes stated that Mr Taylor contacted him as he was struggling to fulfil the contract and needed help. Mr Taylor provided a white saloon Hackney Carriage vehicle. The vehicle was used for the first journey from Workington to Kirkby Moor school but developed a problem with the radiator which started smoking.
- 2.4. Mr Barnes states that he informed Mr Taylor and Mr Taylor took the white saloon Hackney Carriage vehicle and left a blue Jaguar TX1 247 with Mr Barnes to use on the contract. Mr Barnes used this vehicle for the afternoon journey and the following morning.
- 2.5. Mr Barnes states that informed later that second day from Mr Taylor that he (Mr Barnes) could not do the job any more as his County Council badge had expired.
- 2.6. Mr Barnes was informed during the interview that the blue Jaguar vehicle was not licensed and he was asked whether he knew this. He said no but due to the registration (TX1 247) he thought it was a Taxi ie Taxi 1 247(265) which is the telephone number for Mr Taylors other Private Hire Operation.
- 2.7. Mr Barnes admitted that did not check to see if there was a plate or ask Mr Taylor. Mr Barnes was reminded that he had been a Hackney Carriage Driver for 17 years and questioned whether he knew that all Hackney Carriage Saloons are white in colour and have markings to identify it (door signs and roof lights). This vehicle was a blue Jaguar with no markings. Mr Barnes admitted that he didn't think, he just assumed that as Mr Taylor had dropped it off it was OK.
- 2.8. Mr Barnes was not informed by Mr Taylor of the correct reason that the contract was terminated, which was due to the use of an unlicensed vehicle.

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 2). Section 61(1)(b) enables the Panel to take action in respect of a Driver on the ground of "any other reasonable cause" (Appendix 3).
- 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's Hackney Carriage and Private Hire Licensing Policy 2022-2027 details the Authority's Enforcement arrangements. A Penalty Points System is in place 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 Barnes detailed in this report falls under the misconduct "*Using unlicensed vehicle or using a licenced vehicle without insurance or without a valid periodical vehicle test*" to which 12 points are to be issued and therefore directly referred to the Regulatory Panel to consider.

5 OPTIONS

- 5.1 It is recommended that after hearing the evidence and any representations from Mr Barnes, members reach a decision in line with the options available.
- Allow the 12 Penalty Points to remain on Mr Barnes' record for a period of 2 years and take no further action against him

- To suspend Mr Barnes' Hackney Carriage Driver's licence for a period of time.
- To revoke Mr Barnes' Hackney Carriage Driver's licence.
- A combination of the above

Contact Officer: Nicola Edwards

Ext: 7025

Appendices

attached to report:

1. Hackney Driver Licence HD755
2. Sections 51 and 59 Misc. Provisions Act 1976
3. 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:

- None

CORPORATE IMPLICATIONS:

LEGAL – contained within report

FINANCE – None

EQUALITY – None

INFORMATION GOVERNANCE – None

City of



Carlisle

Hackney Carriage Driver Licence **HD755**

Licence Holder

Jason Anthony BARNES

Date of birth

Licence Validity

Valid from **03 Jun 2020** to **02 Jun 2023****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: **05 Mar 2021**



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.



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.



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.

