

**TO: CHAIR AND MEMBERS OF THE
REGULATORY COMMITTEE
FOR 15 NOVEMBER 2016**

REF NO: RC/32/16

ITEM FOR DECISION

HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCES

**NOT FOR PUBLICATION BY VIRTUE
OF PARAGRAPH 7 OF PART 1 OF
SCHEDULE 12A OF THE LOCAL
GOVERNMENT ACT 1972**

APPLICANT:	GLENN THOMAS SKELTON
DATE OF BIRTH:	22 JULY 1978
ADDRESS:	17 THURSBY GARDENS, GATESHEAD, NE9 6NL
PURPOSE OF REPORT:	APPLICATION FOR DUAL (HACKNEY CARRIAGE AND PRIVATE) HIRE DRIVER LICENCE
DATE OF APPLICATION:	20 JULY 2016
PROPOSED PRIVATE HIRE OPERATOR:	CENTRAL TAXIS (GATESHEAD) LIMITED

DETAILS OF PREVIOUS CONVICTIONS/CAUTIONS/FIXED PENALTY NOTICES

DATE OF CONVICTION/CAUTION/FPN	OFFENCE	FINE/SENTENCE
1. 25 July 2016	1. Possess goods with false trade mark for sale or hire	South Northumberland Magistrates' Court, £450 fine, £200 costs, £45 victim surcharge, forfeiture and destruction of all goods, clothes, shoes, perfume and note books.
	2. Possess goods with false trade mark for sale or hire	No separate penalty
	3. Possess goods with false trade mark for sale or hire	No separate penalty
	4. Possess goods with false trade mark for sale or hire	No separate penalty
2. 1 August 2014	1. Battery	Durham Constabulary, Caution
3. 27 June 2014	1. Destroy or damage to property (value of damage £500 or less)	Northumbria Police, Caution
4. 30 October 1997	1. Using threatening, abusive, insulting words or behaviour with intention to cause fear or provocation of violence	Gateshead District Magistrates, Community Service order 80 hours consecutive to sent imposed Newcastle MC 02.12.1996
	2. Dangerous driving	Community Service Order 80 hours concurrent, disqualification from driving 12 months and until extended test passed
	3. Driving otherwise in	No separate penalty,

	accordance with a licence	Driving Licence endorsed
	4. No insurance	Fine £50, £80 costs, Driving licence endorsed 6 points
	5. Driving a motor vehicle with excess alcohol	Fine £100, Disqualification from driving 12 months
5. 3 July 1997	1. Breach of Community Service Order	Gateshead District Magistrates, Fine £20
	2. Going equipped for stealing	Forfeiture/confiscation and destruction of bolt cutters and hacksaw
	3. Handling stolen goods (receiving)	Community Service Order 100 hour, resulting from original conviction of 09/07/96
	4. Breach of conditional discharge	Order revoked
	5. Breach of Community Service Order	Fine £20
6. 2 December 1996	1. Going equipped for stealing	Newcastle upon Tyne District Magistrates, Community Service Order 100 hours, Costs £30, Forfeiture/confiscation and destruction of bolt cutters and hacksaw
	2. Handling stolen goods (receiving)	Community Service Order 100 hours resulting from original conviction of 09/07/96
	3. Breach of conditional discharge	Order revoked
7. 9 July 1996	1. Handling stolen goods	Gateshead District Juvenile Conditional discharge 12 months
8. 22 May 1996	1. Robbery	Gateshead District Juvenile, Community

Service Order 100 hours,
Compensation £25, Costs
£25

2. Handling stolen goods
(undertaking to, or assisting
in retention, removal,
disposal or realisation)

Community Service Order
100 hours concurrent

9. 2 January 1996

1. Burglary and theft non-
dwelling

Gateshead District
Juvenile, Probation Order
12 months

2. Being drunk and disorderly

Probation Order 12
months

3. Theft

Probation Order 12
months

10. 19 July 1995

1. Resisting constable

Gateshead District
Juvenile, Fine £30

2. Theft

Fine £50, Costs £30

11. 11 October 1994

1. Criminal damage

Gateshead District
Magistrates, Conditional
discharge 12 months,
Costs £20

INFORMATION

Background

This is an application for the grant of a dual (hackney carriage and private hire) driver licence. Mr Skelton appears before Members in relation to 11 offences as detailed on pages 2, 3 and 4 of this report.

Pre-Committee Inquiries

On 12 October 2016 Mr Skelton attended a meeting with a Licensing Officer where he stated there were no other outstanding matters that the Regulatory Committee should be aware of when making their decision. Mr Skelton confirmed that the information he has provided is correct and that he has no further convictions, cautions, fixed penalty notices or pending prosecutions.

Northumbria Police have been contacted in relation to offences 3-11 and have stated that if any further information was relevant it would have been disclosed on the DBS certificate.

Details of Offences

Offence 1: Possess goods with false trade mark for sale or hire

Mr Skelton stated that a friend had been using his Facebook account, with his permission, for some time to sell counterfeit goods. Mr Skelton went on to say that this friend then asked him to store some of these counterfeit goods at his home address. These goods had been there for about 2 days when Officer from Trading Standards attended the address. Mr Skelton refused to name who the friend was.

Mr Skelton stated that he is paying the fine for the conviction at the rate of £100 per month and at the time he met with the Licensing Officer he stated he had paid £200.

Offence 2: Battery

Mr Skelton was in a dispute with his girlfriend and she alleged that he had hit her.

Offence 3: Destroy or damage to property (value of damage £500 or less)

Mr Skelton stated that whilst at a friend's house a fight broke out between himself and another male. It was during the course of this fight that damage was caused to a television set and a table.

Offence 4: Using threatening, abusive, insulting words or behaviour with intention to cause fear of provocation of violence, dangerous driving, driving otherwise in accordance with a licence, no insurance and driving a motor vehicle with excess alcohol

Mr Skelton stated that he has no recollection of using threatening, abusive, insulting words or behaviour with intention to cause fear of provocation of violence. However he does recall that he had been driving his motorcycle and at that time he did not have a driving licence or insurance and was drunk. He explained that he was trying to avoid being

stopped by the Police and in order to do so had been driving dangerously.

Offence 5: Breach of Community Service Order, going equipped for stealing and handling stolen goods

Mr Skelton stated that he had failed to attend unpaid work a couple of times.

Offence 6: Going equipped for stealing, handling stolen goods and breach of a conditional discharge

Mr Skelton had no recollection of these offences.

Offence 7: Handling stolen goods

Mr Skelton had no recollection of this offence

Offence 8: Robbery and handling stolen goods

Mr Skelton stated that he was drunk and after a fight with his girlfriend he had gone to the petrol station on Durham Road, Gateshead. He approached the counter, which at the time of night was secure and therefore he was on the outside of the building and speaking to the cashier through the night pay hatch. Mr Skelton stated that he had his hand under his clothing but intimated that he had a gun. He demanded money. The cashier activated the attack alarm and Mr Skelton was confronted by armed police officers. Mr Skelton stated that it was a joke.

Mr Skelton had no recollection about the handling stolen goods offence.

Offence 9: Burglary and theft (non-dwelling), being drunk and disorderly and theft

Mr Skelton's only recollection of these offences is that the burglary and theft offence could have been for a time when he broke into a garden shed.

Offence 10: Resisting constable and theft

Mr Skelton had no recollection of these offences.

Offence 11: Criminal damage

Mr Skelton had no recollection of this offence.

GATESHEAD COUNCIL'S POLICY ON THE RELEVANCE OF CRIMINAL CONDUCT AND COMPLAINTS AGAINST LICENCE HOLDERS

1.2 Objectives

In setting out its policy, Gateshead Council seeks to promote the following objectives:

- The protection of public health and safety;
- The establishment of a professional and respected hackney carriage and private hire trade
- Access to an efficient and effective public transport service;

- The protection of the environment;
- Improve standards of service and the visibility of hackney carriages/private hire vehicles in support of the regeneration of Gateshead.

1.4 Status

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above.

Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Authority to depart substantially from its policy, clear and compelling reasons will be given for doing so. The purpose of this document is to formulate guidelines which detail the Council's current stance on the relevance of criminal conduct in respect of applications for the grant of new licences, and the renewal of existing hackney carriage and private hire vehicle driver's, operator's and proprietor's licences.

The objective of the licensing regime is to ensure that, so far as possible, those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, and honest; and that they are persons who would not take advantage of their position to abuse, assault or defraud customers.

1.6 Suitability

The Local Government (Miscellaneous Provisions) Act 1976 deals with the issue of driver suitability:

"...Council shall not grant a licence to drive a (Private Hire/Hackney Carriage Vehicle) unless they are satisfied that the person is a **fit and proper person** to hold a driver's licence."

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:

"...the district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds –

- 1) that he/she 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 Town Police Clauses Act 1847 or Part of this Act.
 or
- 2) any other reasonable cause."

Therefore the wording of the legislation makes it clear that the Council may grant a licence ONLY if it is satisfied that the person is fit and proper – the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.

1.7 Criminal conduct

The Regulatory Committee are required to look at any relevant indicators that may affect a person's suitability to hold a hackney carriage/private hire driver's licence, and to consider the possible implications of granting such a licence to that person. If a person has been involved in criminal activity, this may be relevant to the Regulatory

Committee's considerations. Convictions, formal cautions, fixed penalties, speeding offences, and the imposition of a fixed penalty in place of a prosecution under any enactment may be relevant indicators of a person's suitability to hold a licence.

1.8 Patterns

A series of incidents of criminal conduct over a period of time is more likely to give cause for concern than an isolated incident. A serious view will be taken when applicants show a pattern of incidents. If for example, the applicant has received three or more convictions for violent action, then, serious consideration should be made as to the suitability of that person holding a licence.

1.9 Periods Free from Conviction

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.

Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.

The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

All criminal conduct should be disclosed. Greater or less weight will be attached to each incident depending on –

- The nature of the offence;
- The penalty imposed;
- The length of time since the offence or conviction (in which case the 1974 Act may be relevant as above); and
- Any relevant circumstances (including in mitigation).

Applicants may be asked to attend an interview with a Licensing Officer and/or a hearing before the Regulatory Committee to provide this information.

1.10 A "Fit and Proper Person"

Whether someone is a "fit and proper person" to hold a licence is ultimately a matter of common sense. When considering whether someone should serve the public, the range of passengers that a driver may carry should be borne in mind for example, elderly people, unaccompanied children, the disabled, those who have had too much to drink, lone women, foreign visitors and unaccompanied property.

Some areas give rise to particular concern, including –

- **Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty; they have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust. For example, any passenger would expect to be charged the correct fare for a journey and then be given the

correct change; they would also expect a driver to hand in any article left by a passenger in a vehicle; and also to maintain confidentiality between driver and passenger.

- **Not abusive** – drivers are often subject to unpleasant or dishonest behaviour. The Council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.
- **A good and safe driver** – Passengers paying for a transport service rely on their driver to get them to their destination safely. Taxi and private hire drivers are expected to be professional drivers and should be fully aware of all Road Traffic legislation and conditions attached to the licence.

1.11 Protecting the Public

The over-riding consideration for the members of the Regulatory Committee is to protect the public. Having considered and applied the appropriate guidelines, the following question should be asked :

“Would I allow my daughter or son, granddaughter or grandson, spouse, mother or father, or any other person I care for or any vulnerable person I know, to get into a vehicle with this person alone?”

If the answer is yes, then a licence should normally be approved. If the Regulatory Committee has any doubts, then the licence must be refused, suspended or revoked. It is the responsibility of the applicant/licence holder to satisfy the Regulatory Committee.

Violence

As hackney carriage and private hire drivers maintain close contact with the public, any previous convictions and/or cautions for violence will be taken seriously by the Regulatory Committee.

An application should be refused or existing licence revoked where the applicant has a conviction for one of the following offences and where the conviction is less than 8 years prior to the date of application:

- Robbery
- s.4 Public Order Act 1986 offence (fear or provocation of violence)
- s.4 Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Unlawful wounding or causing grievous bodily harm
- Unlawful wounding or causing grievous bodily harm with intent

An application should be refused or existing licence revoked where the applicant has a conviction for one of the following offences and where a conviction is less than 5 years prior to the date of application:

- Assault occasioning actual bodily harm
- Common assault
- Criminal damage with a value of £500 or more

If an applicant or existing licence holder has committed two or more violence related

offences, the licence should normally be revoked or refused.

Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. For these reasons a serious view is taken of any convictions involving dishonesty.

A new application will normally be refused or an existing licence revoked where a person has a conviction for an offence of:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception

Compliance with Conditions and requirements of Licensing Authority

The Regulatory Committee may take into account a person's history whilst holding a licence, from this or any other authority. The Regulatory Committee may take into account, in deciding whether a person is a fit and proper person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, also their compliance with Licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.

13. Conclusion

Any applicant having a previous or current conviction should not necessarily be prevented from obtaining a hackney carriage or private hire licence. However, there are certain offences that are considered so serious that they will usually prevent a person obtaining a licence. It is this Council's policy to consider the safety, protection and well being of the general public by ensuring all licensed drivers are in good health, are safe and competent drivers and are able to maintain their vehicles to an acceptable standard.

A person who has committed an offence and who is made to wait for a rehabilitation period to lapse prior to their application being accepted, is more likely to value their licence and act accordingly.

The Regulatory Committee should bear in mind that the purpose of the actions it takes should not be to punish or financially penalise licence holders, but rather to ensure public safety.

It is hoped that applicants and licence holders appreciate that the Regulatory Committee's primary aim is to ensure public safety. By following these guidelines, the

Regulatory Committee is seeking to maintain the high standard of quality of hackney carriage and private hire drivers, operators and proprietors in the Borough, which in turn maintains the good reputation of the taxi industry in Gateshead, and the high quality of service to the travelling public.

Any applicant refused a licence on the grounds that the Regulatory Committee is not satisfied he/she is a fit and proper person to hold such a licence, or who has had their licence suspended, revoked or had a condition attached with which they disagree has a right of appeal by way of written complaint, to the magistrates' court within 21 days of the notice of decision.

**GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS :
DEPARTMENT FOR TRANSPORT CIRCULAR 2/92
HOME OFFICE CIRCULAR 13/92**

GENERAL POLICY

1. Each case will be decided on its merits.

The following examples afford a general guide on the action to be taken where convictions are admitted.

Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Dishonesty

Hackney Carriage and Private Hire drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

FOR DECISION

The Regulatory Committee may:

The Regulatory Committee may;-

- a) Refuse the Application
- b) Grant the Licence for a period of 1, 2 or 3 years
- c) Add a condition to the private hire driver Licence
- d) Grant the licence with a written warning as to future conduct
- e) Adjourn the matter for further enquiries if applicable

The Legal Officer has advised that in deciding whether or not the Committee are satisfied that the Applicant is a fit and proper person to continue to hold a licence, they should only have regard to such factors as are relevant to ensuring public safety, and as such cannot have regard to the impact that their decision may have on the Applicant's livelihood.

**DATE OF COMMITTEE: 15 NOVEMBER
2016**