

**Meeting of:** APPEALS COMMITTEE

**Date:** 7<sup>th</sup> NOVEMBER 2005

**Report of:** HEAD OF LEGAL SERVICES

**Reference:** VR

**Title:** PRIVATE HIRE DRIVER'S LICENCE –  
WILLIAM EDWARD RILEY

## **PUBLIC/EXEMPT ITEM**

This matter will be dealt with in accordance with the adopted procedure for considering matters relating to individual applications, that is, the relevant matters for consideration by the Appeals Committee will be presented in the public part of the meeting, and a decision will be made after the exclusion of the press and public, on the basis that in making its decision, the Appeals Committee will receive exempt information in the form of legal advice on possible legal proceedings arising from the decision.

## **PURPOSE OF THE REPORT**

To enable Members to consider Mr. Riley's appeal against the award of penalty points.

## **RECOMMENDATIONS**

The Appeals Committee is requested to determine, in the light of the representations made, whether to reduce, withdraw or uphold the points awarded against Mr. Riley's Private Hire Driver's Licence.

## **REPORT**

In accordance with the Council's Penalty Point Scheme Mr. Riley was awarded a total of 4 points, as detailed below, and was sent a notice to that effect.

<b>Date</b>	<b>Offence/Breach</b>	<b>No Of Points Issued</b>
11 <sup>th</sup> July 2005	<b>Failing to behave in a civil and polite manner.</b>	4

Mr. Riley is the holder of a Private Hire Drivers Licence and a Hackney Carriage and Hackney Carriage Driver's Licence.

On the 1<sup>st</sup> July 2005 the Licensing Section received a complaint from Mrs Irene Proctor in regard to Mr Riley, in that he refused to wait for Mrs Proctor, as previous drivers had, and gave no assistance with getting out of the vehicle.

On the 11<sup>th</sup> July 2005, after speaking with Mr Riley, Mr Pilkington issued a Penalty Notice to Mr Riley, **Appendix 1**, as he believed this was a breach of number 9 on the Councils Terms and Conditions of Mr Riley's licence, **Appendix 2**.

On the 23<sup>rd</sup> September 2005 a statement was completed by Mr. Pilkington, the Council's Licensing Enforcement Officer, explaining the sequence of events which lead to Mr. Riley being awarded 4 penalty points against his Private Hire Driver's Licence. A copy of his statement is attached at **Appendix 3**.

Also attached is a statement from Mrs Proctor, **Appendix 4**, as she is unable to attend due to her age and illness.

Mr. Riley has appealed against the award of points in a letter dated 18<sup>th</sup> July 2005 a copy of which is attached at **Appendix 5**.

In reaching a decision, Members will no doubt be mindful that all licence holders should behave in a civil and polite manner at all times and this would include the assistance of the passenger from and into the vehicle.

Mr. Riley and/or his representative have been invited to attend the meeting to make representations to the Appeals Committee.

Members are asked to consider whether or not to uphold, reduce or withdraw the points awarded against Mr. Riley's Private Hire Driver's Licence.

### **FINANCIAL IMPLICATIONS**

Financial Services have not been consulted.

### **LEGAL IMPLICATIONS**

The report has been prepared by Legal Services.

### **COMMUNITY SAFETY IMPLICATIONS**

None.

### **HUMAN RIGHTS ACT IMPLICATIONS**

Even if the decision of the Appeals Committee were to uphold the points, no further action would be taken in respect of Mr. Riley's Licence. However, as Members will be aware, should Mr. Riley be issued in any twelve month rolling period more than twenty penalty points on his Licence, he would be required to attend before the Licensing Regulatory Committee, which would consider whether to suspend or revoke his Licence. In the event of suspension or revocation, Mr. Riley would then have a right of appeal to the Magistrates' Court. His rights under the Human Rights Act 1998 are therefore fully protected.

### **RACIAL EQUALITY AND EQUAL OPPORTUNITIES IMPLICATIONS**

None.

### **BACKGROUND PAPERS**

None.

**HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**  
**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

**NOTICE OF ISSUE OF PENALTY POINTS**

To: William Riley  
Of XX

I Dave Pilkington, an Officer of Lancaster City Council hereby give you Notice that a total of 4 penalty points are issued to you in relation to the offence/licence breach as stated in the Schedule below

**Schedule**

**Failing to behave in a civil and polite manner.**

**Dated the 11th day of July 2005**

Signed: \_\_\_\_\_  
**Authorised Officer of Lancaster City Council**

**NOTE:** Any person aggrieved by the issue of Penalty Points may appeal to the Appeals Board. For this purpose, the appeal must be submitted in writing to the Head of Legal Services, Lancaster City Council, Town Hall, Lancaster, LA1 1PJ within **14 days** of the date of this Notice.

## APPENDIX 2

The holder of a Private Hire Driver's Licence shall observe and perform all the following Terms and Conditions which shall be attached to and form part of his/her Private Hire Drivers Licence.

1. The driver shall not sign or in any way part with the benefit of his/her licence that is personal to the licensee.
2. He/she shall not whilst driving or in charge of a Private Hire Vehicle:-
  - (a) tout or solicit on a road or other public place any person to hire or to be carried for hire in a Private Hire Vehicle, or
  - (b) 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
  - (c) offer that vehicle for immediate hire while the licensee of that vehicle is on a road or other public place shall not itself be deemed to be a breach of this condition, or
  - (d) accept an offer for the hire of that vehicle while the licensee of that vehicle is on a road or other public place except where such offer is first communicated to the licensee by telephone or by apparatus by wireless telegraphy fitted to that vehicle.
3. The licensee shall keep a true and proper record of every booking of a Private Hire Vehicle during such time as the licensee is driving or in charge of that vehicle. The records must be kept in an appropriate format provided for that purpose for each Private Hire Vehicle and the records for each vehicle must be kept in the vehicle to which the particular bookings relate. The licensee shall before the relevant journey commences record in the appropriate spaces particulars of:-
  - (a) The place and time the passengers journey commences.
  - (b) The destination of the passengers journey.
  - (c) The name of the person hiring the vehicle.
4. The records referred to in condition 3 above shall be produced by the licensee on demand to any police officer or authorised officer of the Council who shall be afforded by the licensee the opportunity of taking a copy of any of the entries therein.
5. The licensee shall not cause or suffer to permit to be conveyed in a Private Hire Vehicle a greater number of persons exclusive of the driver than the number of persons specified in the licence issued in respect of that Private Hire Vehicle.
6. The driver shall not drive any vehicle as a Private Hire Vehicle without a plate or disc displayed on that vehicle in accordance with the Council's conditions.
7. The driver shall not permit a Private Hire Vehicle to wait on a Hackney Carriage stand.
8. The driver shall not unreasonably prolong a journey in distance or in time without the consent of the hirer.
9. The driver shall at all times behave in a civil and polite manner.
10. The driver shall take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her.

11. The driver shall not permit a child below the age of 10 to be conveyed in the front of the vehicle.
12. The driver shall not permit the noise omitted by any radio or other sound reproducing equipment whether inside or outside the vehicle to be a source of nuisance or annoyance to any person.
13. The driver shall not (without reasonable cause) fail to appear in response to a hiring.
14. The driver shall not be unreasonably late in response to a hiring without reasonable excuse.
15. The driver shall not conceal the exterior or interior identification plate from public view and shall keep the plates in a clean condition.
16. The driver shall provide a written receipt for the fare paid if requested.
17. The driver shall immediately inform the Council of any illness or worsening of any health condition likely to cause him/her to be a source of danger to the public when driving.
18. The driver shall not sound a horn outside a pick-up point.
19. The driver shall not demand a greater fare than has been agreed beforehand or than is allowed under the fares set by the Council.
20. The driver shall make sure that all seat belts are available for use in all vehicles.
21. The licensee shall when driving a Private Hire Vehicle wear in a conspicuous position the driver's identity badge issued to the licensee by the Council bearing the number corresponding with the number assigned to the licensee in a register kept by the Council for that purpose. The identity badge will be provided by the Council on payment of the fee to be fixed by the Council.
22. The driver's identity badge referred to in condition 21 shall remain the property of the Council and if the driver's licence is not renewed or is otherwise revoked or suspended, such badge shall be returned by the licensee to the Council within seven days of the notice by the Chief Solicitor of the Council requesting the licensee to do so.
23. The licensee shall at the request of any authorised officer of the Council or any Constable produce for inspection his driver's licence either forthwith or before the expiration of five days beginning with the day following the date of the request:-
  - (a) In the case of a request to an authorised officer of the Council at the Chief Solicitor's office, Town Hall, Lancaster.
  - (b) In the case of a request of a police constable at any police station within the Council's area which is nominated by the constable when the request is made.
24. The driver shall when requested by the hirer convey a reasonable quantity of luggage and afford reasonable assistance in loading and unloading including assistance in removing to and from the entrance of any house or other place where he/she collects or sets down his/her passengers.
25. The driver of a Private Hire Vehicle shall not at any time when conveying a person hiring that vehicle, smoke or burn tobacco or any other material without the

express permission of the hirer.

26. The driver shall immediately after the termination of any hiring carefully search the vehicle for any property that may have been accidentally left therein and if such property is found, to take the same within two working days or sooner if the property is claimed by or on behalf of its owner, to any police station within the Council's district or to the Chief Solicitor's office at the Town Hall, Lancaster.
27. The driver shall notify the Council in writing, of any conviction or Police caution imposed upon him/her, whether motoring or other than motoring, within fourteen days.
28. The driver shall notify the Council in writing, of any change of address within seven days.
29. The licence may be suspended, revoked or not renewed by the Council:-
  - (a) If the driver commits an offence or otherwise fails to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
  - (b) If the driver has been convicted of an offence involving dishonesty, indecency or violence.
  - (c) If the driver becomes disqualified from driving under any of the Road Traffic Acts in which case the licence shall be automatically revoked.
  - (d) On any other reasonable grounds.
30. The driver is required to carry a guide, hearing or other assistance dog belonging to a passenger, free of charge, unless the driver has been granted exemption by the Council on medical grounds, and the notice of exemption is displayed in the vehicle.

## STATEMENT OF WITNESS

(C.J. Act 1967, S. 9, M.C. Act 1980, S. 5A (3)(a) and 5B)  
(M.C. Rules 1981, Rule 70)

STATEMENT OF:  Dave Pilkington .....

Age of Witness (if over 16 enter "over 18"):  Over 18 .....

Occupation of Witness:  Licensing Enforcement Officer .....

Address:  Lancaster City Council .....

I am David Pilkington, Licensing Enforcement Officer, an Authorised Officer of Lancaster City Council.

On the 1<sup>st</sup> July 2005 I received a complaint from a Mrs. Proctor, of Princess Crescent, stating that she had booked a taxi from her home address to take her to Morecambe. When she reached her destination in Peddar Street, Morecambe, she asked the driver to wait.

Mrs Proctor stated to the driver that she needed to visit the bank and then the clock repair shop in Peddar Street, and asked the driver if he would wait. The driver refused to wait and never gave her any assistance with helping Mrs. Proctor from the vehicle. Mrs. Proctor is also very elderly and very infirm. Mrs. Proctor, then had to walk to the clock repair shop in Peddar Street, she needed help from several members of the public to achieve this and the Walk down Peddar Street took Mrs. Proctor, one hour as she is very infirm.

On the 4<sup>th</sup> July 2005, I spoke to the driver of the vehicle, Mr. W. Riley. He told me that there was no where to park and that if she told him where to park he would.

4 penalty points were issued to Mr. Riley, under the penalty points system, for failing to behave in a civil and polite manner, as it appeared that he did not afford as much assistance to Mrs. Proctor as he should of done and that his attitude to an elderly and infirm 88 year old woman was not what was expected from a Lancaster City Council driver.

Mr Riley, offered no reasonable explanation as to why he gave little or no assistance to Mrs. Proctor, except to say there were no parking places.



## STATEMENT OF WITNESS

(C.J. Act 1967, S. 9, M.C. Act 1980, S. 5A (3)(a) and 5B)  
(M.C. Rules 1981, Rule 70)

STATEMENT OF: IRENE PROCTOR

Age of Witness (if over 18 enter "over 18"): Over 18

Occupation of Witness: Retired

Address:

On Friday 1<sup>st</sup> July 2005, I ordered a taxi from 848848 in Lancaster, to pick me up from my home in Morecambe, and take me to Peddar Street, in Morecambe, where I needed to visit the HSBC Bank and a watch repair shop.

When we arrived at Peddar Street, I asked the taxi driver to wait. He then stated that there was no where to wait.

I said the other man always waits. I then asked him if he could park further down on the corner but he said No, I can't park there.

I am 88 years old and quite infirm, he could see I needed help getting in and out of the taxi, but he never moved, it was like he was glued to the seat. I was very upset.

He dropped me off outside what used to be Clayton Ladies Outfitters and I had to walk to the bank from there. It took me nearly an hour, as I can't walk very well and need a stick.

People were very kind and helped me across the road and to the bank but I was very upset.

When I got to the bank I was very distraught, a man and a woman came to my aid. I told them what had happened and the man gave me a piece of paper with a telephone number on it and he told me to ring them. I later found out that this was the number for Lancaster City Council.

When I left the bank, a taxi was already waiting for me, I think the bank had ordered it. The taxi was from Coastal taxis and the driver was a really nice lad. I always use them now.

This statement [, consisting of 2 pages each signed by me,] is true to the best of my knowledge and belief and I make it knowing that, if it is tendered

*I E Proctor*



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July 18, 2005

Head of Legal Services

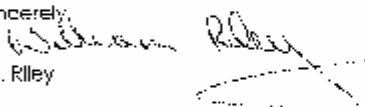
Lancaster City Council.

Dear Sir/Madam,

Regarding your letter of 11/07/2005, signed by D. Pilkington I am most certainly aggrieved by the content of your letter. You may arrange an appeal with the appeal board.

Sincerely,

W. Riley



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