

Regulatory Panel

Date: Wednesday, 14 September 2022

Time: 16:00

Venue: Flensburg Room

Present: Councillor Ruth Alcroft (until 19:02), Councillor Mrs Marilyn Bowman, Councillor Ms Jo Ellis-Williams, Councillor Mrs Elizabeth Mallinson (as substitute for Councillor David Shepherd), Councillor John Mallinson (as substitute for Councillor Keith Meller), Councillor Mrs Linda Mitchell, Councillor David Morton, Councillor Paul Nedved, Councillor Lucy Patrick (as substitute for Councillor Dr Les Tickner), Councillor Peter Sunter.

Officers: Senior Lawyer
Licensing Manager
Licensing Officer x 2

RP.40/22 THE PASSING OF HER MAJESTY QUEEN ELIZABETH II

The Panel observed a minute's silence as a mark of respect following the passing of Her Majesty Queen Elizabeth II.

RP.41/22 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor Keith Meller, Councillor Tim Pickstone, Councillor David Shepherd, Councillor Dr Les Tickner and Councillor Jeanette Whalen.

RP.42/22 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

RP.43/22 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.44/22 MINUTES OF PREVIOUS MEETINGS

RESOLVED - 1) Council on 13 September 2022 had been cancelled as a mark of respect following the passing of Queen Elizabeth II. The receipt and adoption of the minutes of the meetings held on 6 July and 21 July 2022 were deferred to the next meeting of the Panel.

2) That the minutes of the meetings held on 17 August 2022 be agreed as a correct record.

RP.45/22 PRIVATE HIRE OPERATOR

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

Mr Taylor, the Operator was in attendance.

The Senior lawyer outlined the procedure the Panel would follow. Mr Taylor confirmed that he had received, read and understood the licensing Manager's report. The Senior Lawyer advised the Mr Taylor that he had a right to be represented but he indicated that he would not be so represented so as not to delay the matter further.

The Licensing Manager reported that Mr Taylor held a Private Hire Operator Licence to Operate under the trade name Coast to Coast Transfers Ltd and a Private Hire Operator Licence for Carlisle 247365. Both operators had a five year licence that were issued in April 2021. Mr Taylor also held or was involved in companies that held 1 Hackney Carriage Driver Licence; 1 Private Hire Driver Licence; 3 Hackney Carriage Vehicle Licences and 7 Private Hire Vehicle Licences.

Mr Taylor had four penalty points due to 'unsatisfactory condition of a vehicle interior or exterior' relating to a Private Hire vehicle.

The Licensing Manager informed the Panel that a private hire vehicle (PHV) could only be despatched by a private hire operator (PHO). That is, a person who held an operator's licence under the Local Government (Miscellaneous Provisions) Act 1976. A PHV must be driven by a licensed Private Hire Driver (PHD) and the three licences must be issued by the same local authority.

A PHO licence was issued for a period of 5 years and the Council determined whether the applicant was a fit and proper person to hold an operator's licence and in the case of an individual or partnership, that the person(s) was not disqualified by reasons of the applicant's immigration status. The applicant was required to provide information on person(s) who were or would 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.

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 of the report.

The Licensing Manager drew the Panel's attention to section 2.6 and 2.7 of the report which detailed some of the reasons that the Council could suspend, revoke or refuse to renew an Operator's Licensee along with the record keeping requirements for a PHO.

The Licensing Manager set out the current issue. Mr Taylor applied for a PHO Licence for Coast to Coast in March 2021. The application was for up to five vehicles, Mr Taylor had indicated on the application form that he would be operating three vehicles. 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.

The primary purpose of Coast to Coast Transfers Ltd was to undertake contracts on behalf of Cumbria County Council School Transport Service which involved taking school children from home to school and return. The contracts were tendered and then awarded up to a four year term.

On 15 June 2022, the Licensing Manager contacted the Transport Lead at Cumbria County Council following the receipt of information that Mr Taylor had one of his contracts terminated due to the use of an unlicensed vehicle. The Transport Lead confirmed that an unlicensed Jaguar, registration TX1 247, was observed at a Cumbrian School on 6 and/or 7 June 2022 fulfilling Mr Taylor's contract.

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.

Information was provided by Cumbria County Council of 33 contracts that were awarded to Mr Taylor/Coast to Coast Transfers Ltd. The Licensing Authority received further information that an unlicensed vehicle and an unlicensed driver were fulfilling a school transport contract to take children to and from another Cumbrian School.

A joint compliance visit (Transport Team and Licensing Authority) was undertaken on the morning of 27 June 2022 at the school to check the three providers who were allocated contracts for the School, one of which was Mr Taylor's.

The first two vehicles and drivers that arrived at the School were checked as being compliant. The third vehicle that attended was identified by the teacher on duty as it approached the school. 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 ill. JT stated at first it was a one off but after further questioning admitted that she had done it "maybe twice" before. It is understood that the contract was terminated by Cumbria County Council later that day.

The Licensing Authority requested Mr Taylor to provide operator records for Coast to Coast on 7 July 2022. Eight exercise books were produced, due to the nature of the information contained in the books, copies were included for Members' consideration as private under agenda item B.1. It was noted that Mr Taylor had a total of 33 contracts at this time and provided records for only 8 of these.

Mr Taylor admitted that an unlicensed driver and vehicle had been used to undertake the contract on 27 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 was also now aware that CT did not hold a DVLA Driving Licence as he had been banned from driving in April 2022 for 12 months for driving under the influence of drugs.

Due to potential offences being committed it was agreed that Mr Taylor would be interviewed in accordance with PACE (i.e. under caution) on 15 July 2022. 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. A summary of the interview had been set out in section 3.20 of the report and a copy of the full interview had been included for consideration in agenda item B.1.

Mr Barnes, Hackney Carriage Driver, had been interviewed on 27 July 2022. He confirmed that Mr Taylor had contacted him in June to ask him to undertake a School Transport Contract as he had been struggling to fulfil the contract. Mr Taylor had provided Mr Barnes with a white saloon vehicle, however, on the first morning it had radiator issues. Later that day Mr Taylor provided Mr Barnes with a blue jaguar TX1 247. Mr Barnes used this vehicle for the afternoon pick and the following morning. On 7 June Mr Taylor informed Mr Barnes that he could not continue with

the job as Mr Barnes' County Council badge had expired.

During the interview Mr Barnes had been informed that the vehicle had not been licensed and that it had been an offence to drive an unlicensed private hire vehicle. Mr Barnes stated he had not been aware the vehicle was unlicensed; he had assumed it was due to the registration and because Mr Taylor had provided the vehicle.

Both CT and JT had been invited to attend PACE interviews on three separate occasions and neither had attended. Driving a vehicle unlicensed is a criminal offence, therefore a letter, still under caution, had been sent out for response.

Mr Taylor also held a Private Hire Operators Licence for Carlisle 247365, located at Fisher Street. The application for that licence declared that Lesley Wood and Brian Dorrance would be involved in the company and the licence was for up to 10 vehicles. A compliance inspection of the records for the operation was undertaken on 27 July 2022. Carlisle 247365 used a computer system for bookings and records of telephone bookings were provided from 3 May 2021. The booking records did not contain all the information required under the operator licence.

Mr Taylor had not checked the licence status of the drivers and vehicles that Carlisle 247365 operated, he did state that he was currently undertaking this task following the issues that had arisen with the Coast to Coast operation. He also stated that the office at Fisher Street was not staffed 24 hours a day. Mr Dorrance had a computer system at his home at Chapelknowe, Dumfries and Galloway and took early morning calls. The office was staffed from 10am and the end time varied from day to day, through the night calls were diverted to a driver, Mr Erkan Colak.

The Licensing Manager reported that there were concerns that these arrangements did not meet the requirements placed on the Operator, either via conditions or legislation. The applicant was to specify on their application for a Private Hire Operator Licence the address from which it intended to carry on business in connection with private hire vehicles. Mr Taylor stated on the application form for Carlisle 247365 that this was 4 Fisher Street, Carlisle and made no reference to bookings taken at Chapelknowe, outside the licensed district.

The second concern related to bookings taken by Mr Colak, a licensed driver, who took the calls during the night whilst he was driving. He then co-ordinated the despatching and fulfilling of the booking via a WhatsApp group of drivers. There was no record of the bookings kept by Carlisle 247365 which was a condition of their licence and required by legislation. Mr Taylor stated that he did not realise that a record of bookings for Hackney Carriage vehicles taken by Carlisle 247365 were required.

The Licensing Manager responded to questions from the Panel and clarified the following:

- An enhanced DBS check was a comprehensive criminal record check for prescribed professions including taxi drivers. A basic DBS can be requested for anyone;
- Mr Taylor had 33 contracts and only had records for 8 of them;
- Mr Taylor had been awarded 4 Penalty Points due to the poor interior condition of his vehicle;
- She did not have any information with regard to the contracts with Cumbria County Council or their contingency plans and she did not know why they had not informed the Licensing Authority of Mr Taylor's breaches of contract;
- 8 contracts had records, the remaining contracts were fulfilled by Hackney Carriage Vehicles which Mr Taylor claimed he did not know he had to hold records for.

Mr Taylor raised the following issues with the report:

- He had never stated to officers at Cumbria County Council that his personal vehicle was insured for hire and reward.
- CT claimed that he had not received any request to attend an interview;
- JT had been invited for an interview which they were unable to attend, following a conversation with the Licensing Manager JT did not want to be interviewed as the Licensing Manager had spoken to JT and informed them that they could go to Court, JT did not want to be involved in the matter. It was understood that JT had submitted a complaint with regard to the Licensing Manager.

The Licensing Manager clarified:

- a letter had been sent to CT and it was returned, JT then agreed to give CT two further letters, the letters were also emailed to CT;
- that there had been a telephone conversation with JT but disputed JT's recollection of the call, however, driving the vehicle unlicensed was an offence and JT was informed in a letter of the potential outcome of the matter.

Mr Taylor, the Private Hire Operator, addressed the Panel. He stated that the report presented by the Licensing Manager was correct. He took over the business in 2021 and had worked twelve hours a day, seven days a week. He did not want to make excuses; he had not made the necessary checks, he was now ensuring everything was being done correctly.

Mr Taylor responded to questions and clarified the following:

- He had two companies, 247365 was based at Fisher Street and operated 30-35 vehicles, the business took calls and dispatched vehicles. Coast to Coast was contract based, majority was 26 daily contracts with Cumbria County Council;
- The taxi administration system was cloud based and operators would log into it. When Mr Dorrence was logged into the system he could answer calls at his home in Dumfries and Galloway.
- All calls through the computer system for 247365 were logged;
- As a result of this matter a person was now employed to deal with all of the contracts and ensure that the relevant checks were being undertaken. In addition all vehicle and driver information was logged in the system;
- He had asked Mr Barnes to take the unlicensed vehicle, his priority had been to take the child home;
- He now understood that he should contact Cumbria County Council if he could not fulfil a contract and they would arrange for alternative transportation.

The Licensing Manager strongly emphasised the danger of an unlicensed and unchecked vehicle and the severe consequences of an accident.

RP.46/22 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.47/22 PRIVATE HIRE OPERATOR

(Public and Press excluded by virtue of Paragraphs 1 and 7)

The Licensing Manager submitted report GD.53/22 containing the confidential appendices to the public report GD.47/22 which was considered as agenda item A.1.

RESOLVED - That the sensitive information contained in report GD.53/22 be noted and would be considered as part of the decision for agenda item A.1 Private Hire Operator.

The meeting moved into public

RP.48/22 PRIVATE HIRE OPERATOR

The Licensing Manager drew Members' attention to the legislation which they must take account of and set out the options for the Panel.

The respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter.

The Panel adjourned at 4.51pm and reconvened at 4.55pm.

The respective parties returned, and it was:

RESOLVED – That the Regulatory Panel had carefully considered and read evidence in report GD.47/22 and Private report GD.53/22 and heard from the Council's Licensing Manager and Mr Taylor, the Private Hire Operator.

The Panel noted that Mr Taylor had held a Private Hire Operator's Licence for Coast to Coast Transfers Ltd and a private Hire Operator's Licence for Carlisle 247365 since April 2021.

Mr Taylor had been brought before the Panel following evidence that he had operated unlicensed vehicles and drivers.

The Panel decided to revoke both of Mr Taylor's Private Hire Operators Licences.

The Panel gave the following reasons for the decision:

1. The Panel had a duty of care to the public and must be satisfied that Mr Taylor was a fit and proper person to hold an operators licence;
2. The Panel were very concerned that Mr Taylor used unlicensed drivers to drive his vehicles;
3. The Panel were concerned that Mr Taylor did not make adequate checks of which drivers and vehicles were carrying out various journeys;
4. The Panel were not satisfied at the failure by Mr Taylor to provide adequate records for the vehicles and employees under his operation;
5. The Panel were concerned that Mr Taylor provided an unlicensed vehicle to carry out school contracts;
6. The Panel had grave concerns that Mr Taylor's failure to make adequate checks on his drivers resulted in a driver under his operation taking passengers when they had been banned from driving by the DVLA for driving under the influence of drugs;
7. The Panel did not feel that Mr Taylor's operation arrangements for Carlisle 247365 met the requirements placed on operators by conditions and legislation;
8. The Panel considered that these actions had put fare paying passengers and other members of the public at risk and they did not consider that Mr Taylor was a fit and proper person to hold a Private Hire Operators Licence.

Mr Taylor was informed that the decision would be confirmed in writing along with rights of appeal.

RP.49/22 HACKNEY CARRIAGE DRIVER – DRIVING UNLICENSED VEHICLE

The Licensing Officer submitted a report regarding a Hackney Carriage Driver who had used an unlicensed vehicle for a pre-booked journey to fulfil a Private Hire Operator's contract with Cumbria County Council's School Transport (GD.51/22).

Mr Barnes, the Hackney Carriage Driver was in attendance.

The Senior Lawyer outlined the procedure the Panel would follow. Mr Barnes confirmed that he had received, read and understood the licensing Manager's report. The Senior Lawyer advised the Mr Barnes that he had a right to be represented but he indicated that he would not be so represented.

The Licensing Officer reported that Mr Barnes had held a Hackney Carriage Driver Licence since January 2005 and had no penalty points under the Hackney Carriage and Private Hire Licensing Policy on his record.

The Licensing Officer reminded the Panel that during the investigation into Coast to Coast Operator (GD.47/22) it had been brought to the attention of the Licensing Authority that Mr Barnes had used an unlicensed vehicle to undertake a School Contract on or around the 6 or 7 June 2022. Mr Barnes was interviewed on 27 July 2022 and he confirmed that he undertook the school run for Coast to Coast (Mr Taylor) for one and a half days in the beginning of June. The job had been due to be for approximately a month.

During the interview 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 had been used for the first journey but developed a problem with the radiator. Mr Barnes stated that he informed Mr Taylor who then 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.

Mr Barnes stated that Mr Taylor had informed him on the second day that he could not do the job any more as Mr Barnes' County Council badge had expired. 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.

Mr Barnes admitted that did not check to see if there was a plate nor 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 were white in colour and had markings to identify it (door signs and roof lights). The blue Jaguar did not match other vehicles and had no markings. Mr Barnes admitted that he had not thought, he just assumed that as Mr Taylor had provided the vehicle it was OK.

Mr Barnes was not informed by Mr Taylor of the correct reason that the contract had been terminated, which was due to the use of an unlicensed vehicle.

In response to a question the Licensing Officer confirmed that it was the responsibility of both the operator and the driver to ensure that the vehicle was licensed, the Licensing Authority expected due diligence from both.

With the agreement of the Regulatory Panel, Mr Barnes circulated a written statement a copy of a reference in support of his case. The statement set out the circumstances in which Mr Barnes was provided the vehicle and that he never knowingly committed this offence and asked the Panel to dismiss the matter. He stated that he was a competent driver and a fit and proper person to hold a Hackney carriage licence. Mr Barnes informed the Panel that he had received a recommendation and £250 reward from a High Court Judge in 2014 for stopping a drunk driving whist in his taxi.

Mr Barnes responded to questions and clarified the following:

- His Cumbria County Council had expired six months previous; he had thought that it was valid until 2023 due to Covid, he had reapplied for the badge;
He had returned to taxi driving as there had been a shortage of taxis

The Licensing Manager reiterated that Mr Taylor's contract with Cumbria County Council had been terminated due to the use of unlicensed vehicles, it was not due to Mr Barnes' County Council badge being expired.

The Licensing Officer drew Members' attention to the legislation which they must take account of and set out the options for the Panel

The respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter. The respective parties returned, and it was:

RESOLVED - That the Regulatory Panel had carefully considered and read evidence in report GD.51/22 and heard from the Council's Licensing Officer and Mr Barnes, the Hackney Carriage Driver.

The Panel noted that Mr Barnes had held a Hackney Carriage Driver Licence since January 2005 and had no Penalty Points on his record.

Mr Barnes had been brought before the Panel following evidence that he had driven an unlicensed vehicle without making the necessary checks.

The Panel decided to allow the 12 Penalty Points to remain on Mr Barnes' record for a period of 2 years and take no further action against him.

The Panel noted Mr Barnes exemplary record prior to the 12 Points received for using an unlicensed vehicle.

The Panel adjourned at 17:57 and reconvened at 18.04

RP.50/22 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.51/22 SUSPENSION OF HACKNEY CARRIAGE DRIVER

(Public and Press excluded by virtue of Paragraph 1)

The Licensing Manager submitted a report (GD.49/22) regarding a licenced Hackney Carriage Driver.

The Driver was in attendance.

The Senior Lawyer outlined the procedure the Panel would follow. The Driver confirmed that he had received, read and understood the Licensing Manager's report. The Senior Lawyer advised the Driver that he had a right to be represented but he indicated that he would not be so represented.

The Licensing Manager set out the Hackney Carriage Driver's background and detailed the reason for the Driver being brought to the Panel.

The Licensing Manager responded to questions regarding: the change in the Council's Policy with regard to the notification of cautions and offences, the changes in procedures so cautions and offences were picked up earlier than the three year DBS check, how all drivers had been notified of changes to the Policy.

With the agreement of the Panel the Driver submitted a written statement in response to the report and in support of his case.

A Member asked that the Panel support the officer's recommendation in light of the details presented. The Chair responded that the Licensing Manager had stated the Council's case and it was only fair that the Driver was given the same opportunity before the Panel reached a decision.

The Panel adjourned at 6.22 to read the Driver's statement and reconvened at 6.37.

The Driver responded to questions from the Panel confirming his request for the outcome of the Panel, clarity on an incorrect date in the report, history to how he became a driver, details of the matter for consideration by the Panel.

The Driver requested that a short video be played. Following the video the Driver confirmed that he was the person in the video.

The Licensing Manager reminded the Panel of the serious nature of the previous convictions and the information with regard to the Driver's personal use of his licensed vehicle which came to light during the investigation.

The Licensing Manager drew Members' attention to the legislation which they must take account of and set out the options for the Panel.

The respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter. The respective parties returned, and it was:

RESOLVED – The Panel had carefully considered and read the evidence in report GD.49/22 and heard from the Council's Licence Manager and the Hackney Carriage Driver.

The Panel noted that the Hackney Carriage Driver had held the licence since 2015 and had 4 Penalty Points.

The Hackney Carriage Driver was brought before the Panel following an arrest for alleged offences.

Drivers must command the highest level of confidence before they can be entrusted with the responsibility of carrying passengers and it was essential that the Council took their responsibility seriously when determining whether someone was a fit and proper person to hold a licence.

The Panel decided to suspend the Hackney Carriage Drivers licence until the outcome of the police investigation was known. If no further action is to be taken by Cumbria Constabulary then the Panel give the Licensing Manager authority to lift the suspension. Should the charges be pursued a report would be submitted to the Panel for further consideration.

The reason for the decision was:

1. The Hackney Carriage Driver had been arrested for a serious crime and the Panel understood from Cumbria Constabulary that this was an on-going investigation.

The Hackney Carriage Driver was informed that the decision would be confirmed in writing along with rights of appeal.

In accordance with Procedure Rule 17.5 Councillors Mrs Bowman, Ms Ellis-Williams and J Mallinson recorded that they voted against the decision.

RP.52/22 STANDING ORDERS

During consideration of the above item, it was noted that the meeting duration had reached 3 hours. A Member moved that Council Procedure Rule 9 be suspended; the proposal was seconded.

RESOLVED - That Council Procedural Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the 3 hour time limit.

The Meeting ended at: 19:53