

REGULATORY PANEL

WEDNESDAY 30 MAY 2012 AT 2.00 PM

PRESENT: Councillors Allison(from 2.45pm), Bell, Bowman C, Cape, Craig, Ms Franklin, Morton, Mrs Parsons, Scarborough, Mrs Stevenson, Mrs Vasey and Mrs Warwick.

RP.12/12 APPOINTMENT OF CHAIRMAN

It was moved and seconded that Councillor Bell be appointed as Chairman of the Regulatory Panel for the municipal year 2012/13.

RESOLVED – That Councillor Bell be appointed as Chairman of the Regulatory Panel for the municipal year 2012/13. Councillor Bell thereupon took the Chair.

RP.13/12 APPOINTMENT OF VICE CHAIRMAN

It was moved and seconded that Councillor Franklin be appointed as Vice Chairman of the Regulatory Panel for the municipal year 2012/13.

RESOLVED – That Councillor Franklin be appointed as Vice Chairman of the Regulatory Panel for the municipal year 2012/13

RP.14/12 APOLOGIES FOR ABSENCE

An apology for absence were submitted on behalf of Councillor Layden.

RP.15/12 DECLARATIONS OF INTEREST

There were no declarations of interest affecting the business to be transacted at the meeting.

RP.16/12 MINUTES OF PREVIOUS MEETINGS

RESOLVED – That the minutes of the meeting held on 14 March 2012 be agreed as a correct record of the meeting and signed by the Chairman.

RP.17/12 HACKNEY CARRIAGE DRIVER COMPLAINT – REFUSAL TO TAKE A DISABLED PASSENGER IN A WHEELCHAIR – T MCPAKE

The Licensing Officer presented Report GD.26/12 regarding a complaint received about a Hackney Carriage Driver.

Mr McPake, the Hackney Carriage driver, and Mr Matthews, his representative, were in attendance at the meeting. Mr D Milne, the complainant's father, was also in attendance.

The Chairman outlined the procedure the Panel would follow. Mr McPake confirmed that he had received and read the Licensing Officer's report.

The Licensing Officer outlined Mr McPake's Licensing History and highlighted previous incidents that had occurred, a number of which had resulted in referrals to the Regulatory Panel and letters of warning.

The Licensing Officer reported that, on 4th March 2012 at approximately 1.30am Mr Jonathan Milne, a full time wheelchair user, along with his brother (Stephen), father (David) and friend had been waiting at the station rank for the first available wheelchair accessible taxi. It had been raining at the time. Mr T McPake came to the top of the ramp and Mr S Milne, asked if he would take a fare to Bowness on Solway. Mr McPake agreed, but when Mr S Milne requested that the wheelchair ramps be laid out Mr McPake changed his mind saying wheelchairs were a hassle at that time of night and he could take two fares in the time of took to get the ramps out and out away.

Exchanges were made and Mr S Milne and Mr D Milne alleged Mr McPake had teased them. Both had become angry about the situation and abusive language had been exchanged as they had wanted to take Mr J Milne home and out of the rain as soon as possible. They had requested a fare from the taxi behind, driven by Mr Celik, who then conveyed them home.

The Licensing Officer informed the Panel that Mr McPake had attended the Civic Centre on 23 March 2012 to discuss the allegations. Mr McPake recollected the event and said the family had been abusive to him and he would not take the fare whilst they were being aggressive. Mr McPake had been using the telephone during the dispute to a fellow colleague, Mr D Lahey. Mr McPake said he put his window up and ignored the family until the next fare approached. He had recognised the family as living in the same village as his relatives and later that evening he had conveyed their elder brother home at approximately 2.30am to Bowness on Solway.

The Licensing Office contacted Mr Lahey and he could only recall part of the incident as set out in appendix 3 of the report.

Mr S Milne had been interviewed by the Licensing Officer on 28 March 2012. Mr Milne confirmed the details of Mr J Milne's complaint and he stated that the complaint had been pursued because Jonathan had still been upset and annoyed about the situation the following day. All of the Milne family had signed the letter of complaint as their recollection of the incident. Mr S Milne commented that his brother Mr J Milne had only began to gain confidence to go into town but had not wanted to do so since the incident.

At the request of the Panel Mr D Milne informed the Panel of the impact of the incident on his family. He stated that Jonathan had been upset the following morning and had been embarrassed whilst at the taxi rank. This was the first time he had been out in town at night, he had gone with a school friend. As a result of the incident he had lost confidence. In response to questions he informed the Panel that the approximate time of the incident was 1.30am and that they had gone to another rank first but there had been no taxis available. When they arrived at the Court Square rank they had let two saloon taxis go to other customers as Jonathan was unable to access a saloon taxi from his wheelchair unaided. He explained that he knew of Mr McPake's brother prior to the incident but not Mr McPake and he confirmed that there were no ill feelings or dispute between the two families. He disputed the allegation that Mr S Milne had approached Mr McPake in an aggressive manner.

In response to a question the Licensing Officer confirmed that the number of complaints from members of the public against Mr McPake was unusually high.

Mr Matthews then addressed the Panel on behalf of Mr McPake. He explained that if a potential passenger was being aggressive the driver had to make a judgement, for their own safety, on whether to accept the fare or not. He stated that if a passenger was abusive and it was an out of town fare then there was a risk to the driver as a passenger could request the driver to stop the vehicle at any time. Mr McPake asked Mr Milne to refrain from swearing and, when he did not, refused the fare. A driver would not normally refuse an out of town fare in the current climate and Mr McPake was staying in the same village so the fare would have taken him home for the evening. Mr McPake had taken Mr Milne's other son home to Bowness on Solway later the same evening. Mr Matthews denied that Mr McPake told Mr Milne to say 'pretty please' as, he said, this would clearly lead to a complaint to the Regulatory Panel.

Mr McPake clarified that he had not refused to take the fare but had asked Mr Milne to stop being abusive. Mr McPake had taken another passenger home immediately after the incident without any problems. He explained to the Panel that Mr Milne approached the taxi and was immediately aggressive and was swearing and threatening him.

Mr Matthews concluded by informing the Panel that Mr McPake had several school contracts which included driving disabled children. He circulated three letters of support to the Panel for their information.

In response to questions Mr McPake stated that he had not said that wheelchairs were a hassle or that he could do two runs in the time it took to set out the ramps. He clarified the circumstances with regard to a complaint made in 2008. He outlined how his circumstances had changed and how he had improved his life. He confirmed that he had not refused to take Mr Milne but had asked him to stop being aggressive, if he had not been aggressive then Mr McPake would have followed the normal practice of getting the ramps out and securing the passenger. He added that he had not provoked Mr Milne and had felt he was being attacked. Mr McPake also confirmed that Mr Lahey had not

been present at the time of the incident but he had heard most of the dispute over the telephone.

At the request of the Chairman Mr Milne clarified the events of the evening and confirmed that his son Mr S Milne had become aggressive but only after Mr McPake had made the comments about wheelchairs being a hassle. Mr Milne confirmed that they had arrived at the Court Square rank from another rank but had not been aggrieved by the situation. In fact, the group were in good spirits as this had been Jonathan's first evening out in town and it had gone well.

The Licensing Officer reminded the Panel of the relevant Legislation and outlined the options open to the Panel.

Mr Matthews summed up by stating that Mr McPake was before the Panel for something that he claimed he had not done, if he lost his licence he would lose his livelihood and he had a family, including one child, to support.

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

During the consideration Councillor Mrs Warwick declared a personal and prejudicial interest in accordance with the Council's Code of Conduct. The interest related to the fact that Mr McPake was known to her.

Councillor Mrs Warwick left the meeting and took no part in the decision making.

RESOLVED – 1) That, having given detailed consideration to the matter and taking into account the witness testimonies, the Hackney Carriage Driver's statement and his licensing history, the Panel accepted the version of events given by Mr Milne and that, accordingly, they agreed that Mr McPake had refused to transport the wheelchair bound passenger. In considering the appropriate penalty, the Panel had given consideration to the impact on Mr Milne as well as Mr McPake's licensing history and had given consideration to the options open to them as set out in the licensing officers' report. The Panel agreed to revoke Mr McPake's Hackney Carriage Drivers Licence.

2) That it be noted that Mr McPake was informed that he had a right of appeal and that right would be confirmed in writing.

RP.18/12 UPDATE ON PREVIOUS REPORTS

Councillor Mrs Warwick returned to the meeting.
Councillor Allison arrived for the remainder of the meeting.

The Licensing Manager gave a verbal update with regard to three drivers which had previously been dealt with by the Panel.

He reported that:

- Mr D Black's licence had been suspended by the Panel on 9 February 2011 pending the outcome of the Crown Court case. Mr Black had been charged with abduction and had been sentenced to four years imprisonment.

- Mr D Graham's licence had been suspended by the Panel on 23 March 2011 pending the outcome of a Crown Court case. The Court had found Mr Graham not guilty; however, the Judge presiding requested that the Police make a report to the Regulatory Panel to consider a review of his taxi licence, the Judge commented that he had concerns regarding Mr Graham operating as a taxi driver and would like a full investigation into his fitness to be a taxi driver. Mr Graham had contacted the Licensing Office to discuss re-applying for his licence and was told that any application would have to be considered by the Regulatory Panel. Mr Graham has to date not submitted an application.

- Mr M Shields' licence had been revoked by the Regulatory Panel on 8 February 2012 for refusing to take a passenger who used a wheelchair. The Magistrates Court had dismissed Mr Shield's appeal and he had appealed this decision to the Crown Court but a hearing date had not yet been set.

(The meeting ended at 2.50pm)