

REGULATORY PANEL

WEDNESDAY 13 JULY 2016 AT 2.00PM

PRESENT: Councillor Bell (Chairman), Councillors Bainbridge, Bowman S, Collier (as substitute for Councillor Morton), Ms Franklin, Layden, Mrs Parsons, Sidgwick, Tinnion, Wilson and Miss Williams (as substitute for Councillor Osgood)

OFFICERS: Assistant Solicitor
Licensing Manager
Licensing Officer

RP.24/16 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Morton and Osgood.

RP.25/16 DECLARATION OF INTEREST

Councillor Bainbridge declared an interest in accordance with the Council's Code of Conduct in respect of agenda item A.2 – Driving without due care and attention. The interest related to the fact that he served Mr Colak's representative coffee from his business premises on a regular basis.

Councillor Wilson declared an interest in accordance with the Council's Code of Conduct in respect of agenda item A.2 – Driving without due care and attention. The interest related to the fact that he was aware of Mr Colak through Petteril Bank Community Centre.

RP.26/16 PUBLIC AND PRESS

It was agreed that the items of business in Part A be dealt with in public and the items of business in Part B be dealt with when the public and press were excluded.

RP.27/16 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 8 June 2016 be noted.

RP.28/16 AGENDA

RESOLVED – That agenda item A.2 will be considered before agenda item A.1.

RP.29/16 DRIVING WITHOUT DUE CARE AND ATTENTION

The Licensing Officer presented report GD.41/16 regarding a complaint received against a Hackney Carriage Driver.

Mr Colak, the Hackney Carriage Driver and his representative, Mr Thomas, were in attendance.

The Assistant Solicitor outlined the procedure the Panel would follow. Mr Colak's representative confirmed that he had received and read the Licensing Officer's report.

The Licensing Officer reported that Mr Colak had been a licenced Hackney Carriage Driver since December 2014 and had completed all of the necessary criteria at the time, including taking the Driving Standards Agency 'Taxi test'. The Licensing Officer outlined the complaints which had been received against Mr Colak, full details of which had been set out in the report and appendices, which included:

22/12/14 - a report that Mr Colak had his meter set to night rate before the correct time

11/04/16 – a complaint had been raised that some drivers had been refusing fares at the Station Rank due to short fares and Mr Colak had been named as one of the drivers.

The licensing office had issued a warning letter to Mr Colak as a result of the complaint.

18/04/16 - a complaint from an employee of a train company which used taxis to commute employees to Appleby due to the landslide. The complaint reported that Mr Colak had driven at 50mph on London Road and nearly 90mph on the motorway with only one hand on the steering wheel of the vehicle. The passenger had felt that the vehicle was unstable and he had been left shaken from the journey.

The licensing office had interviewed Mr Colak and he disputed all the allegations which had been made against him. There had been no independent witnesses to the incident so the licensing office issued a letter of warning which had informed Mr Colak that any further complaints or offences would result in a referral to the Regulatory Panel. The licensing office had been informed that due to the serious nature of the concerns the company had changed their transport supplier.

26/06/16 - The Licensing Manager had witnessed Mr Colak driving his licensed vehicle at speed and manoeuvring dangerously whilst travelling from Junction 44 to Junction 43 of the M6 Southbound. The Licensing Manager was in attendance at the meeting to give her account of the incident. The licensing office interviewed Mr Colak and he disputed all the allegations made against him.

In response to questions from the Panel and Mr Colak's representative the Licensing Officer clarified the following points for Members:

- Mr Colak's driving licence had no penalty points or endorsements on it
- The licensing office had no direct evidence in respect of the complaints made in April; however, the complaints were kept on file to be used if future complaints were raised.

Mr Thomas addressed the Panel on behalf of Mr Colak. He addressed each of the incidents in turn:

22/12/14 – The incident occurred shortly after Mr Colak had been issued with his licence. He had just bought the vehicle and meter and he accepted that the meter had been incorrect. When the issue was raised Mr Colak had the meter fixed and there had been no complaints of a similar nature since.

11/04/16 – Mr Colak was employed by Carlisle Taxis 24/7 and regularly received bookings via the telephone. If he had left the rank at the Station or refused a fare it could

have been because he had received a booking via the telephone and had left straight away for the booking. Mr Colak did not 'cherry pick' his fares.

18/04/16 – Mr Colak had felt that the complainant had been unpleasant and hostile when he realised that Mr Colak was from Eastern Europe. Mr Colak remembered the journey and in addition to the details in the report he remembered that there had been two passengers in the taxi and he had brought passengers back from the station to Carlisle. With regard to the speeding of 50mph, the complaint was not clear where Mr Colak had increased his speed, this was important as the speed limit did increase to 50mph at the top of London Road, he suggested that Mr Colak had increased his speed at the appropriate time on the road.

Mr Thomas stated that it was significant that Mr Colak had a clean driving licence and had he been speeding a camera would have picked him up.

The Licensing Officer clarified that there had been two passengers in the vehicle at the time of the alleged incident. The passengers had been staff from the train company and it had not been possible to get in touch with the other passenger for a witness statement.

The Licensing Manager detailed the incident which had occurred on 26 June 2016. She explained that she had been driving on the western bypass to Junction 43 approaching Junction 44. She had parked at the traffic lights on the inside lane when her passenger alerted her to the taxi in the next lane which was parked half way through the lights. She could see the licence plate was H125 and she recognised Mr Colak.

When the lights changed to green both vehicles set off but Mr Colak was travelling much faster than the Licensing Manager onto the motorway. She witnessed Mr Colak go down the slip road and speed up to get onto the left lane of motorway in front of a red HGV. She saw the HGV move quickly into the middle lane. She then witnessed Mr Colak manoeuvring from the middle lane to the right lane and back without indicating. She had been travelling at 70mph and had not been able to keep up with Mr Colak. The Licensing Manager had since tested her speedometer and found it was working correctly.

In response to questions from Members and Mr Thomas, Mr Colak's representative, the Licensing Manager clarified the following:

- The incident had taken place at approximately 2pm; the traffic was average but not quiet.
- Mr Colak's vehicle was parked exactly half way over the white line, as though he had been going through the light change but changed his mind
- Mr Colak's manoeuvre onto the motorway had caused the HGV to move quickly
- She had followed Mr Colak for approximately a third of the journey.

Mr Thomas, then addressed the Panel on behalf of Mr Colak in respect of the incident on 26/06/16:

Mr Colak was 42 years old and came to the United Kingdom in 1995; he passed his driving test in 1996 and had no penalty points or endorsements on his licence. He was the sole provider for his family and Mr Colak had suffered financially and emotionally due the matter coming before the Panel.

There had been no evidence or previous convictions and apart from the incident in June, there had been no exact evidence supporting the complaints. It was significant that Mr Colak reacted quickly to the first letter of warning and repaired his meter and there had been no similar complaints since.

Mr Thomas had accepted the evidence from the Licensing Manager and observed that the alleged incident took place on a Sunday during the day, there had not been any serious incidents and there had been no complaints to the Police. He admitted that the driving had not been good but there had not been an accident and he felt that the incident did not justify the revocation of Mr Colak's licence.

In response to questions from Members Mr Colak's representative confirmed:

- Mr Colak had not been carrying any passengers on 26 June
- Mr Colak had felt that there had been some resentment from the passenger on 18 April and he had felt the passenger had been hostile towards him. The passenger had not liked the fact that Mr Colak could not understand him or needed to use his sat nav. It had been the first time Mr Colak had taken the journey to Appleby Train Station.

The Licensing Officer confirmed that Mr Colak had changed the meter in his vehicle but when interviewed about the last two complaints Mr Colak had denied all of the allegations and had stated he may have been driving at 75mph on the motorway which was still speeding. She added that the day or time of the incident on the motorway was irrelevant and it was a question of public safety.

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

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

RESOLVED – The Panel had carefully considered all the evidence presented before them and have heard Mr Colak's account of the incidents and also heard from the witness, the Licensing Manager.

The Panel appreciated that Mr Colak had no points on his licence but they were concerned that they had received two complaints regarding Mr Colak's speeding.

The Panel decided:

- To suspend Mr Colak's Hackney Carriage Driver's licence for a period of two weeks
- In addition Mr Colak is required to sit and pass a Driving Standards Agency Taxi Driving Test prior to the end of the suspension or, if this is not possible, at the earliest available date.

RP.30/16 SCRAP METAL DEALERS ACT 2013 – REVIEW OF FEES

The Licensing Manager submitted report GD.38/16 which asked the Regulatory Panel to review the fees for licence renewals with effect from October 2016.

The Licensing Manager reminded the Panel what the Scrap Metal Dealers Act 2013 was and what the Licensing Authority's role was. Fees were set locally by each authority on a cost recovery basis. The fees reflected the time officers spent on processing, administering, issuing and monitoring licences and each licence had a different fee which reflected the additional work required for different licences.

The fees had been set in December 2013, as detailed in 3.3 of the report, following Home Office guidance and in subsequent years the fees formed part of the normal annual charging review process.

It was proposed that an approximate 2-4% increase be applied to the fees, as detailed in section 4 of the report. The increase was similar to that applied to other licences as detailed in the charging review report to Executive in November 2015, with the exception of a variation of a licence from Site to Collector (and vice-versa).

RESOLVED – That the fee structure as set out below be approved from 1 October 2016:

3 year Site Licence

Grant	£415.00
Renewal	£415.00
Vary name	£30.00
Vary site manager	£50.00
Vary Site/Collector or add site	£165.00*

3 year Collector's Licence

Grant	£250.00
Renewal	£250.00
Vary name/address	£30.00

(The meeting ended at 3.10pm)