

AGENDA

Regulatory Panel

Wednesday, 27 May 2020 AT 14:00

This meeting will be a virtual meeting and therefore will not take place in a physical location.

Register of Attendance and Declarations of Interest

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

Appointment of Chair

To appoint a Chair of the Panel for the 2020/21 municipal year

Appointment of Vice Chair

To appoint a Vice Chair of the Panel for the 2020/21 municipal year.

Apologies for Absence

To receive apologies for absence and notification of substitutions

Public and Press

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

Minutes of Previous Meeting

5 - 8

The Chair will move the minutes of the meeting held on 12 February 2020 as a correct record. The only part of the minutes that may be discussed is their

accuracy.
(Copy Minutes herewith)

PART A

To be considered when the Public and Press are present

A.1 COVID 19 - ISSUES RELATING TO HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING 9 - 14

The Licensing Manager to submit a report outlining how Carlisle City Council has addressed issues in order to continue to provide a service to existing hackney carriage and private hire licence holders during the current COVID-19 pandemic and necessary social restrictions.

(Copy Report GD.19/20 herewith/appendix to follow)

PART B

To be considered when the Public and Press are excluded from the meeting

- NIL -

Members of the Regulatory Panel:

Conservative – Bainbridge, Collier, Meller, Morton, Nedved, Shepherd, Ellis (sub), Mrs Mallinson (sub), J Mallinson (sub)

Labour – Mrs Bradley, Brown, Ms Ellis-Williams, Miss Sherriff, Dr Tickner, McNulty (sub), Robinson (sub), Rodgeron (sub)

Independent - Tinnion, Paton (sub)

Enquiries, requests for reports, background papers etc to:

Rachel Plant, Democratic Services Officer - rachel.plant@carlisle.gov.uk

REGULATORY PANEL

WEDNESDAY 12 FEBRUARY 2020 AT 2.02PM

PRESENT: Councillor Ms Ellis-Williams (Chair), Councillors Mrs Bradley, Meller, Morton, Nedved, Shepherd, Miss Sherriff, Dr Tickner and Tinnion

OFFICERS: Assistant Solicitor
Licensing Manager
Regulatory Compliance Officer (Apprentice)

RP.01/20 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf on Councillor Brown.

RP.02/20 DECLARATIONS OF INTEREST

Councillor Tinnion declared a personal interest in respect of agenda item A.1, Hackney Carriage Driver – Complaint in accordance with the City Council's Code of Conduct. The interest related to the fact that he knew the complainant and her father. Councillor Tinnion left the meeting and took no part in the consideration of the item.

Councillor Mrs Bradley declared a personal interest in respect agenda item A.1, Hackney Carriage Driver – Complaint in accordance with the City Council's Code of Conduct. The interest related to the fact that she knew the complainant. Councillor Mrs Bradley remained in the meeting to observe and took no part in the consideration of the item.

RP.03/20 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.04/20 MINUTES OF PREVIOUS MEETING

RESOLVED – That is was noted that Council, on 7 January 2020, received and adopted the minutes of the meeting held on 16 October 2019. The Chair signed the minutes.

RP.05/20 HACKNEY CARRIAGE DRIVER - COMPLAINT

Having declared personal interests Councillor Tinnion left the meeting and Councillor Mrs Bradley remained to observe only.

The Licensing Manager submitted a report regarding a complaint against a Hackney Carriage Driver (GD.05/20).

Mr Lee, the Hackney Carriage Driver (the Driver) and the Complainant were in attendance.

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

The Licensing Manager reported that the Driver had been a licenced driver since 2001. In 2015 the Driver had received a final warning regarding his history of speeding since becoming a

licensed driver. In 2017 the Driver disclosed a motoring conviction for speeding and was referred to the Regulatory Panel. The Panel required that he took and passed a Speed Awareness Risk Assessment which he did in December 2017.

The Licensing Manager explained that a complaint had been received on 23 December 2019 from a passenger which the Driver had conveyed at 2.15am on Saturday 21 December 2019. The Complainant's full statement had been included as appendix 5 and alleged that the Driver was driving too fast, approximately 45mph in a 30mph zone. The Complainant asked the Driver to slow down and he did not. The Complainant questioned the Driver on the driving requirements for his licence and alleged that he became aggressive and refused to show the Complainant his Hackney Carriage Badge. The Complainant also stated that she did not ask to be taken to her home address as she did not want him to know where she lived and as a result, she left the vehicle without paying the fare. In addition, the complaint had felt that the Driver had was not a licensed driver.

The Hackney Carriage Driver was interviewed on 10 January 2020 and he recalled the journey. He said that the passenger started suddenly asking him questions regarding a driving test for his licence and she was aggressive with him and 'worse for wear'. He did not recall her asking him to slow down and he did not believe he was speeding. He stated that his Hackney Carriage Badge was on view, clipped to the middle vent in the vehicle. The Driver stated that the passenger asked him to hand her the badge and he refused as it was clearly on view and could be read easily.

The Complainant addressed the Panel. She confirmed that her statement as set out in appendix 5 of the report was correct. She clarified that when she asked to see the Driver's badge he had covered it so she could not see it. She added that when she questioned the Driver about his licence, he had become anxious and asked her why she wanted to know, as a result she did not believe he was a licensed driver. She informed the Panel that she was a driving instructor and was aware of speed limits and even though she had been drinking she knew how to get home safely.

In response to a Member's question the Complainant confirmed that it was clear to her at the time of entering the vehicle that the vehicle was a taxi.

The Hackney Carriage Driver addressed the Panel. He thanked the Panel for having the opportunity to make a statement. He stated that he remembered the journey as the Complainant had not paid the fare and this did not happen very often. He said that the Complainant was 'worse for wear' with drink and was very aggressive. He felt that the complaint was not credible due to this. The Complainant had told him she was a driving instructor early in the journey and he had been more aware of his speed as a result. He admitted that he had accelerated on Stanwix Bank to get onto Brampton Road, but this had been the only time in the journey when he may have been going fast. He reminded the Panel that he had attended a Speed Awareness Risk Assessment.

He stated that the Complainant had said that all drivers had to have a test and when he responded that she was incorrect, she had insisted. He added that he was concentrating on the driving and getting the passenger home safely. He confirmed that the Complainant's statement was accurate however the order was incorrect. He reiterated that he had not been speeding, he had only accelerated to get up the hill. He commented that he was not an aggressive person and the report from the Speed Awareness Risk Assessment supported this. There were occasions whilst driving where he had to be firm or assertive, but he was not aggressive.

Referring to the complaint he stated that he had stopped at the Complainant's house and she had started to shout at him asking for his badge, he had asked her to calm down. The badge

had been clearly displayed and when the Licensing Manager had inspected his vehicle, she could see the badge from the position the passenger had been sitting in. He said he did not cover the badge, but he did pick it up and bring it closer to the Complainant to make it more visible.

The Driver commented that he did not know why the Complainant would have thought he was not licensed as his badge was clearly on display and as the Complainant puts Licensed Drivers through their test, she should know what an official badge looked like.

Referring to the non-payment of the fare the Driver explained that this was a criminal offence. The Complainant had told him she would not pay him as he was not a real driver and she had slammed the door and went to her house. The Complainant's statement had said that he had revved his engine, he stated that he was a responsible driver and would not do that in a residential area at that time of the morning.

In response to Members questions the Driver clarified the following:

- The usual procedure for dealing with non-payment of a fare would be to visit the property the next day. He had not visited the property to collect payment due to the passenger's attitude. If a driver felt that they were in danger they would call the Police to deal with non-payment.
- He had not heard the passenger ask him to slow down.
- He had not accelerated on Stanwix Bank to get through a green light before it changed to red.
- He had not reported the passenger to the Police for non-payment, he had made the decision not to pursue the payment.

The Licensing Manager confirmed:

- Whilst sitting in the Hackney Carriage Driver's vehicle, in the same seat the passenger had sat, she could see the Driver's Badge and the speedometer.
- Licensing Services did not have any involvement in non-payment of fares.
- When the Complainant had made the complaint, she had stated she was happy to make the payment for the fare and the Driver had been informed of this when he had been interviewed.

The Licensing Manager summed up by drawing the Panel's attention to relevant legislation and Penalty Point System that Members should take into consideration and the options available to them as detailed in sections 3 and 4 of the report.

The Chair explained the Penalty Points System to the Hackney Carriage Driver clarifying that any points given would be added to his Hackney Carriage Driver Licence not his DVLA Driving Licence

The Complainant summed up by clarifying that she was an experienced driver and could tell what speed the vehicle was travelling. She stated that she had not told the Driver about her job early in the journey and she did not get out of the vehicle at her home for her own safety. The driver had left her at speed, and this had been caught on a neighbour's camera. She finished by confirming that she was willing to pay her fare.

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

RESOLVED - That the Members of the Panel had read the evidence, including the comments from Smith's Driving School, contained within Report GD.05/20. The Panel carefully listened to the submissions by Mr Lee, the Complainant and the Licensing Manager and had taken full account of the information.

The Panel decided to impose six Penalty Points on Mr Lee's Hackney Carriage Driver Licence. The Points were applicable under number 45 – Unsatisfactory behaviour or conduct of a driver of the Council's Penalty Points Scheme.

The reasons for the decision were:

- The Panel felt that Mr Lee did not slow down when asked to by the passenger;
- As a Hackney Carriage Driver Mr Lee had a duty of care for each passenger to ensure that they travelled in a safe and reassured manner.

The Driver was advised that he would receive written notification of this decision within 28 days from today.

[The meeting ended at 3.16pm]

Report to Regulatory Panel

Agenda
Item:

A.1

Meeting Date: 27th May 2020
Portfolio: Finance, Governance and Resources
Key Decision: No
Within Policy and Budget Framework YES
Public / Private Public

Title: Covid-19 – Issues relating to Hackney Carriage and Private Hire Licensing
Report of: Corporate Director of Governance and Regulatory Services
Report Number: GD 19/20

Purpose / Summary:

The current COVID-19 pandemic and necessary social restrictions present a challenge to the Licensing Authority. The report outlines how we have initially addressed the issues in order to continue to provide a service to existing hackney carriage and private hire licence holders.

Recommendation:-

Members note the current position.

Tracking

Executive:	N/A
Scrutiny:	N/A
Council:	N/A

1. Background (guidance provided by Government, LGA and IOL)

- 1.1.** Carlisle City Council licenses 330 drivers who work in the hackney carriage and private hire industry. Many people rely on hackney carriages and private hire vehicles to transport them and whilst there has been a significant downturn in this activity as a result of the Covid-19 crisis, hackney carriages and private hire vehicles still remain a vital form of transport for many, including to and from hospitals, GPs and to go shopping.
- 1.2.** Dealing with 'every day' licensing issues has provided practical challenges with licensing staff working remotely. However, the service has been prioritised so that all existing licence holders continue to receive a timely service to enable them to continue to work if they have chosen to do so.
- 1.3.** The Office of National Statistics has reported that among men, a number of specific occupations were found to have raised rates of death involving COVID-19, these included: taxi drivers and chauffeurs (36.4 deaths per 100,000); bus and coach drivers (26.4 deaths per 100,000); chefs (35.9 deaths per 100,000); and sales and retail assistants (19.8 deaths per 100,000). It is important therefore that the licensing authority cascade relevant government advice and are able to assist licence holders in reducing the risk whilst they work by authorising the installation of screens in their vehicles in a timely manner.
- 1.4.** Relevant guidance has been produced to assist Licensing Authorities and by HM Government, the Local Government Association and the Institute of Licensing.

2. Administration of Licences

- 2.1.** All hackney carriage and private hire licences are granted for a limited period and require an application to renew or they will lapse. Those periods vary (a maximum of one year for a vehicle licence, 3 years for a driver's licence and 5 years for an operator's licence).
- 2.2.** We continue to accept renewal applications and can process and issue these renewal licences. We are not currently accepting application for new hackney carriage or private hire licences as we are not able to undertake the necessary face to face inspections, training and tests that are required. This is reviewed on a monthly basis.

3. Disclosure and Barring Service Checks

- 3.1.** The Licensing Authority are able to continue to process applications for enhanced DBS checks for licensed drivers. The DBS have amended their guidance to allow authorities to undertake verification of existing licence holders remotely. We are currently not able to process any new DBS applications as these require face to face contact.

4. GP Medicals

- 4.1.** Each licensed driver is required to have a Group 2 medical completed by their own GP on application and thereafter every 3 years for under 65-year olds and 1 year for over 65s. Carlisle GP practices have currently suspended occupational medicals initially for 3 months but likely to July at the earliest.
- 4.2.** Existing drivers, who would normally be due to produce medical evidence of fitness to drive, have been informed that this is suspended until further notice. However, they have been asked to complete a self-certification of their medical fitness and have been reminded of their responsibility to inform the licensing authority if there are any changes to their medical circumstances

5. Suspension of Tests -MOT/COC

- 5.1.** Licensed vehicles required periodical mechanical tests which are undertaken by the Council's mechanics at Bousteads Grassing. All tests were suspended from 11th April 2020 in order for the garage to focus their resources on the Council's fleet, particularly waste vehicles in order to enable the continuation of other essential services. Licence holders were informed of their responsibility to ensure that their vehicles were kept in a roadworthy condition. We are monitoring the situation with a review to reinstating the tests at the earliest possible date and will provide an update at the meeting.
- 5.2.** Members will be aware that HM Government announced in April that MOT's would be extended for a further 6 months. However under the Motor Vehicles (Tests) Regulations 1981 the Carlisle City Council holds a certificate issued by the Secretary of State evidencing that he is satisfied that the issue of the licence is subject to the licensed vehicle first passing an annual test and therefore exempting these vehicles from the requirement of holding an MOT. The council issues a Certificate of Compliance (COC) following the annual test.
- 5.3.** Unfortunately, COC's have not been afforded this 6 month extension and therefore those vehicles that have COCs expiring have been required to

obtain a MOT from an authorised garage during this period of suspension of tests.

6. Screens

- 6.1.** As detailed earlier in this report, the taxi and private hire trade have been identified as raised risk of death by the Office of National Statistics. The National Private Hire and Taxi Association in conjunction with the national trade newspaper Private Hire and Taxi Monthly (PHTM) are mounting a campaign staunchly in favour of the installation of as many protection screens into licensed saloon PHVs and taxis, and licensed minibuses, as is possible to help lower the transmission of the virus, to protect passengers and drivers alike.
- 6.2.** Carlisle Licensing Authority will support the installation of protective screens in licensed vehicles provided they are fit for purpose and of a safe standard. There is no requirement to make amendments to licence conditions, but licence holders are required to obtain permission for installation. A guidance note has been produced alongside a procedure for authorisation to ensure that licence holders are able to fit screens in their vehicles without unnecessary delay. (Appendix 1 – to follow)

7. Recommendations

That Members note the content of the report.

Contact Officer: Nicola Edwards

Ext: 7025

Appendices

attached to report:

1. Guidelines for the installation of protective screens in licensed vehicles – to follow

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

CORPORATE IMPLICATIONS:

LEGAL – NONE

FINANCE – NONE

EQUALITY – NONE

INFORMATION GOVERNANCE – NONE

