

REGULATORY PANEL

WEDNESDAY 8 FEBRUARY 2012 AT 2.00 PM

PRESENT: Councillor Morton (Chairman), Councillors Bell, Cape, Mrs Farmer, Mrs Franklin, Mrs Parsons (until 3.40pm), Mrs Robson, Scarborough, Mrs Vasey, Mrs Warwick and Whalen.

RP.01/12 APOLOGIES FOR ABSENCE

There were no apologies for absence submitted at the meeting.

RP.02.12 DECLARATIONS OF INTEREST

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

RP.03/12 MINUTES OF PREVIOUS MEETINGS

RESOLVED – That the minutes of the meetings held on 19 October 2011 and 23 November 2011 be agreed as a correct record of the meeting and signed by the Chairman.

RP.04/12 HACKNEY CARRIAGE DRIVER – COMPLAINT REFUSAL TO TAKE WHEELCHAIR PASSENGER – W M SHIELDS

The Licensing Officer presented Report GD.07/12 regarding a complaint received from a member of public which alleged that a Hackney Carriage driver refused to carry a wheelchair user.

Mr Shields, the Hackney Carriage driver, was in attendance at the meeting.

The Assistant Solicitor outlined the procedure the Panel would follow. Mr Shields confirmed that he had received and read the Licensing Officer's report. The Assistant Solicitor advised Mr Shields that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer outlined Mr Shield's Licensing History and highlighted previous incidents that had occurred, a number of which resulted in letters of warning, suspension and on one occasion an appearance before the Licensing Committee.

The Licensing Officer reported that a complaint had been received from Mr Hymers stating that, on 16 December 2011, he had approached the first taxi in the queue at Court Square with his mother who was a wheelchair user. The

taxi was parked in the disabled bay but the taxi driver, Mr Shields, had refused to take Mr Hymers and his mother stating that his ramps were not working. Mr Shields did not get out of the vehicle, did not give a full explanation and did not speak to the driver behind him.

Mr Hymers and his mother then approached the next taxi in the queue, the driver of which also refused to take Mr Hymers and his mother. Mr Hymers eventually secured a taxi from the third wheelchair accessible vehicle in line driven by Mr Bell who had challenged both the drivers and supplied a witness statement attached to the report.

The Licensing Officer explained complaints of this nature caused animosity with the public and with other drivers who were not informed of the reason for refusal. Drivers had reported to the Licensing Office that these type of complaints were increasing and were caused by a lack of communication.

The Licensing Officer reported that the Licensing Office carried out an investigation and Mr Shields had been interviewed on 5 January 2012 regarding the allegations. Mr Shields stated that his ramps had 'disintegrated and he told them to get the next cab'. Mr Shields confirmed that he did not get out of his vehicle and that his ramps had been broken for a couple of days.

When asked why he had parked in the disabled bay Mr Shields stated that all the cars parked there but he agreed with the Licensing Officers view and admitted that he should not have parked there as he knew it was for disabled access vehicles only and he apologised.

The Licensing Office had inspected the ramps and there was a new pin in the centre strip of the ramps and they were in working order. Mr Shields had been informed that the incident would be referred to the Regulatory Panel for a decision.

In response to questions from the Panel the Licensing Officer confirmed that it was unusual for a driver to have the amount of offences or Panel referrals that Mr Shields had. She also explained that all drivers were made aware of the regulations with regard to disabled passengers and how to use the disabled bay at Court Square.

Mr Shields then addressed the Panel. He stated that he had not shook his head at Mr Hymers, he rolled the window down and told Mr Hymers that his ramp was not safe for wheelchairs. He commented that a lot of drivers on the rank would not take wheelchair users but he took any fares. He said that there was a lot of discrimination towards wheelchair users. He stated that he did not know that he could not park at the disabled bay. He had had the ramp fixed and it had been 15 years since he had appeared before the Panel.

In response to questions from the Panel Mr Shields explained that the centre pin had come out of his ramp which meant that the centre part of the ramp would not support a wheelchair and was unsafe. The taxi had to go to Glasgow to be fixed but he had a friend who put a pop rivet in as a temporary measure.

He had told Mr Bell that his ramp was not working. He felt that his previous offences were not serious and he was not a careless driver. He added that everyone made mistakes. He did take disabled passengers but on this occasion his ramp had not been working. Mr Shields' did agree that in hindsight he should have got out of the taxi to speak to Mr Hymers and explain to the driver behind him the reason for not taking Mr Hymers and his mother but he had spoken to him through the open window. As far as he had been aware Mr Hymers had not been happy he could not get in the taxi but it had not been an issue.

The Licensing Officer informed the Panel that Mr Shields had a duty to inform the Licensing Office of any changes to the use of his vehicle, if he had informed the Office then officers would have inspected the work to ensure it was safe and checked the necessary paperwork. The Licensing Office had not yet received a copy of the paperwork.

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

RESOLVED – 1) That, having given detailed consideration to the matter and taking into account the witness testimonies and the Hackney Carriage Driver's statement the Panel agreed to revoke Mr Shields Hackney Carriage Drivers Licence as he was not a fit and proper person to hold a Hackney Carriage Drivers Licence.

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

**RP.05/12 HACKNEY CARRIAGE DRIVER – COMPLAINT REFUSAL TO
TAKE WHEELCHAIR PASSENGER AND POLICE REPORT
– B CELIK**

The Licensing Officer presented Report GD.08/12 regarding a complaint received from a member of public which alleged that a Hackney Carriage driver refused to carry a wheelchair user. In addition Cumbria Constabulary had lodged a complaint regarding a high number of incidents.

Mr Celik, the Hackney Carriage driver, was in attendance at the meeting.

The Assistant Solicitor outlined the procedure the Panel would follow. Mr Celik confirmed that he had received and read the Licensing Officer's report. The Assistant Solicitor advised Mr Celik that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer outlined Mr Celik's Licensing History and highlighted a number of previous incidents where Mr Celik had refused to convey passengers.

The Licensing Officer reported that a complaint had been received from Mr Hymers stating that, on 16 December 2011, he had approached the first taxi in the queue at Court Square with his mother who was a wheelchair user. The taxi was parked in the disabled bay but the taxi driver had refused to convey Mr Hymers and his mother.

Mr Hymers and his mother then approached the next taxi in the queue driven by Mr Celik. The complaint stated that Mr Celik remained in the driver's seat of the vehicle without making any attempt to assist Mr Hymers and kept pointing to the taxi in front which had refused them.

Mr Hymers eventually secured a taxi from the third wheelchair accessible vehicle in line driven by Mr Bell who had challenged both the drivers and supplied a witness statement attached to the report.

The Licensing Officer reported that the Licensing Office carried out an investigation and Mr Celik had been interviewed on 28 December 2011 regarding the allegations. When asked to explain his actions Mr Celik explained that he could not convey the two passengers because the taxi in front of him was parked in the wheelchair accessible bay. He also stated that he would not discriminate against a wheelchair user and that he had spoken to Mr Hymers and his mother. The Licensing Officer informed Mr Celik of the witness statements that contradicted his explanation.

The Licensing Officer explained that in December 2011 Cumbria Constabulary contacted the Licensing Office regarding their concerns that an unusually large and increasing amount of calls for service from Mr Celik and about him had been received. A report outlining the issues had been included within the Licensing Manager's report.

As a result of the report from Cumbria Constabulary Mr Celik was invited to attend the Civic Centre to read and make comment on the police report. Mr Celik stated that whilst working as a taxi driver he had recently assisted the police during a crime enquiry and was surprised at such a report. He also stated that when people hired his vehicle and then refused to pay they were committing offences which only the police could deal with. He added that he did not take the law into his own hands.

Mr Celik was informed that the complaint received from Mr Hymers and the police report would be referred to the Regulatory Panel.

In response to a question the Licensing Officer informed the Panel that the number of complaints received about Mr Celik was unprecedented.

PC Wright of Cumbria Constabulary was in attendance at the meeting. He submitted a report which showed 24 complaints received either about Mr Celik or from Mr Celik himself. The main theme of the complaints was with regard to the amount of the fare or non payment of fares. The Police were concerned with the three incidents of false imprisonment and the concerns that had been

raised by three female officers with regard to Mr Celik's attitude towards women.

The Licensing Officer confirmed that the complaints made to the Licensing Office from other taxi drivers had been made by five different drivers.

Mr Celik then addressed the Panel. He stated that he had never refused to take any passengers. He had not taken Mr Hymers and his mother because another taxi driver was in the disabled parking bay so there was no space to pick up a wheelchair user. He outlined the circumstances of a number of the complaints and explained that some of the passengers had tried to leave his vehicle without paying the fare. On a number of occasions the police had told him that it was a civil matter. He asked who he was supposed to contact if he could not phone the police when passengers were refusing to pay.

With regard to the complaints made by other drivers Mr Celik commented that he did not know the other drivers. He stated that on several occasions passengers would go to the next taxi and not use his because he was not English. The driver behind him would not know this was the reason the passenger did not get in his taxi.

Mr Celik explained that the driver who took Mr Hymers was able to move up to the disabled bay as the driver who had been parked there had a fare and moved out of the bay.

In response to the false imprisonment incidents Mr Celik informed the Panel that for out of town fares he asked for cash up front and for fares in Carlisle he put the meter on. Passengers had wanted to get out of his taxi to get money or not pay their fare. He had taken a fare to Eastriggs and the passenger had refused to pay their fare, he had logged an incident with the police at Gretna.

He explained that he usually asked for money in advance of the journey for fares that were outside of Carlisle and did not put the meter on. He always put the meter on in journeys within Cumbria but not if the journey was to Scotland.

Mr Celik informed the Panel that he was married with two children.

Mr Watson clarified the following points:

- wheelchair accessible vehicles had a button in the front of the cab which allowed the driver to lock the door.
- it was possible for wheelchair accessible vehicles to pick up wheelchair passengers further down the rank away from the disabled bay although the bay was the flattest area.
- there were approximately 19 drivers of nationalities other than British in Carlisle and there were no issues of a similar nature with any of them.
- a hackney carriage vehicle had to have its meter on at all times whilst travelling with a fare within the Carlisle district area. If the vehicle was travelling outside of the district they did not have to have the meter on but were advised to as good practice.

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

RESOLVED – 1) That, having given detailed consideration to the matter and taking into account the witness testimonies, the Hackney Carriage Driver's statement and the serious nature of the Police report, especially in relation to false imprisonment of passengers, the Panel agreed to revoke Mr Celik's Hackney Carriage Drivers Licence as he was not a fit and proper person to hold a Hackney Carriage Drivers Licence.

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

RP.06/12 APPLICATION FOR SEXUAL ENTERTAINMENT VENUE LICENCE – CLUB ROUGE

The Licensing Manager submitted report GD.09/12 regarding an application for a Sexual Entertainment Venue from Club Rouge.

Mr Anderson, Director of Dan Russell Atlas Development, the applicant and Mr Shakeshaft, Premises Supervisor of Club Rouge were in attendance.

The Assistant Solicitor outlined the procedure the Panel would follow. Mr Anderson confirmed that he had received, read and understood the Licensing Manager's report.

The Licensing Manager reminded the Panel of the introduction of the Sexual Entertainment Venue (SEV) which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and allowed authorities to regulate lap dancing and similar entertainment. The City Council had determined that the First Appointed Day for accepting applications would 1 June 2011.

He reminded the Panel of the transitional period and the Policy set by the Council. He highlighted the relevant legislation and explained that on 26 June 1989 the Licensing Panel of the City Council agreed to licence a sex establishment at 6 London Road, Carlisle. At that time the Panel considered that one such establishment in that locality was sufficient.

The Licensing Manager informed the Panel that on 24 September 2011 an application for a Sexual Entertainment Licence had been received from an existing operator, Rouge. The premises had been operating as an adult entertainment night club since 2009 and currently operated under a premises licence issued under the Licensing Act 2003. In accordance with the legislation the application had been advertised on the premises and in a local newspaper in and Cumbria Constabulary had been consulted. No representations had been received.

The Licensing Manager outlined the relevant paragraphs from the City Council's Sex Establishment Licensing Policy and reminded the Panel that they would need

to consider if the premises were in the same locality and if so if they supported the previous Licensing Panel's decision that one establishment was sufficient for the locality.

Mr Anderson commented that he operated several premises within Carlisle and took the opportunity to congratulate the City Council's Licensing Department for being proactive.

Councillors Franklin, Scarborough and Whalen abstained from taking part in the decision.

RESOLVED –1) That the Panel considered that Club Rouge was not in the same locality as the premises which operated at 6 London Road.

2) That the application for a Sexual Entertainment Venue for Club Rouge be granted.

RP.07/12 EXTERIOR ADVERTISING ON WHITE SALOON HACKNEY CARRIAGES – VARIATION OF GUIDANCE

The Licensing Officer submitted report GD.12/12 regarding an application for an amendment to the guidance for exterior advertising on white saloon hackney carriages.

The Licensing Officer outlined the Council's guidance with regard to advertising and reminded the Panel that saloon vehicles were limited to advertising on the rear doors and quarter panels only to protect the Council's 'all white' policy for saloon taxis and to make them easily identifiable to the public.

The Licensing Officer reported that AAA Taxis had, on 13 January 2012, made a request to the Council to allow advertising stickers to be placed in the rear windows of hackney carriage saloons. The requested made it clear that the advertising would only be in relation to the Taxi company name and telephone number.

He added that several conversations had taken place with various saloon drivers/owners who had contravened the current guidelines and displayed their name and number in the rear windows. The drivers/owners had been informed to remove the advertising.

The Licensing Officer informed the Panel that to allow an advertising strip style sticker using a perforated window marking film would allow the saloon to be identified from a particular company. The size of the panel and position was important as the saloon rear screens were not large and often had rear wiper blades.

He reported that the example of advertising panel which had been included in the request may be considered to compromise the general appearance of the saloon as it was large and placed in the centre of the screen. To allow one advertising

panel per rear screen at a maximum of 6cm x 60cm placed at the bottom of the screen may be considered not to compromise the appearance of the saloon.

The Licensing Officer stated that should the Panel consider granting the application the Consolidated Guidelines in respect of advertising on Hackney Carriages and Private Hire vehicles would have to be amended.

RESOLVED – 1) That one advertising panel per rear screen, placed at the bottom of the screen, with a maximum size of 6cm x 60cm in white saloon cars be agreed;

2) That the Consolidated Guidelines in respect of advertising on Hackney Carriages and Private Hire vehicles be amended as follows:

There will be no advertising on the windows or other glass areas with the exception of the rear screen which, subject to approval, may carry an advertisement made from a perforated window marking film or similar transparent material. This advert may only include the name and telephone number of the proprietor's company/operator and will be no greater than 6cm x 60cm in size and will be positioned at the bottom of the rear screen.

(The meeting ended at 4.02pm)