

REGULATORY PANEL

WEDNESDAY 14 MARCH 2012 AT 2.00 PM

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

RP.08/12 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Layden, Mrs Robson and Whalen.

RP.09.12 DECLARATIONS OF INTEREST

Councillor Mrs Vasey declared a personal and prejudicial interest in accordance with the Council's Code of Conduct in respect of Agenda Item A.1 Hackney Carriage Driver Complaint In Relation To Wheelchair User – G Atkinson. Her interest related to the fact that her husband knew Mr Atkinson.

RP.10/12 MINUTES OF PREVIOUS MEETINGS

RESOLVED – That the minutes of the meeting held on 8 February 2012 be agreed as a correct record of the meeting and signed by the Chairman.

RP.11/12 HACKNEY CARRIAGE DRIVER COMPLAINT IN RELATION TO WHEELCHAIR USER – G ATKINSON

Having declared a personal and prejudicial interest Mrs Vasey left the meeting during the discussion of this item.

The Licensing Officer presented Report GD.20/12 regarding a complaint received about a Hackney Carriage Driver.

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

The Assistant Solicitor outlined the procedure the Panel would follow. Mr Atkinson confirmed that he had received and read the Licensing Officer's report. The Assistant Solicitor advised Mr Atkinson 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 Atkinson's Licensing History and highlighted previous incidents that had occurred, a number of which resulted in letters of warning.

The Licensing Officer reported that, on 20 February 2012, Mr Atkinson had conveyed a wheelchair user and his Support Worker from the Cerebral Palsy Shop, Botchergate to their resource centre at Shadygrove Road. A complaint had been received from the Support Worker of the passenger and the Deputy Manager of the shop indicating that Mr Atkinson did not secure the brakes of the wheelchair correctly, did not strap the passenger in and conveyed him sideways.

In addition the complainants felt that Mr Atkinson had made inappropriate remarks to the passenger and both the Support Worker and the Deputy Manager felt the remarks were offensive.

The Licensing Officer outlined the relevant sections of the Road Traffic Act 1988, the vehicle manufacturer's handbook and the code of practice attached to Mr Atkinson's Hackney Carriage Drivers Licence.

The Licensing Officer informed the Panel that Mr Atkinson had attended the Civic Centre on 29 February 2012 to discuss the complaint. The Licensing Officer felt Mr Atkinson was defensive regarding his remarks. He had been transporting the passenger for many years and, although he couldn't remember his exact words, Mr Atkinson had meant his comments to entertain the passenger. He also commented that the Support Worker was new and he thought she was 'naive and prudish'.

Mr Atkinson could not remember how the passenger had been secured in the vehicle but insisted that both brakes would have been put on the wheelchair. After further discussion Mr Atkinson admitted that the wheelchair had been loaded into the vehicle sideways and no straps had been placed on the passenger or the wheelchair. In his opinion Mr Atkinson felt that this was sufficient as he would be driving slowly around corners and said that 'the journey went without incident'.

During the discussion the Licensing Officer stressed the importance of correctly securing wheelchair passengers and Mr Atkinson stated that in his day 'you just had to come and fill an application form in and show your licence to be a taxi driver'.

The Licensing Officer added that Mr Atkinson had not attended or passed a Driving Standards Agency Wheelchair Test Assessment and has not attended any formal training on the procedure for loading and unloading wheelchair passengers as he had 'grandfather rights' to transport disabled and wheelchair passengers.

Mr Atkinson then addressed the Panel. He felt that the complaint stemmed from him being late but that had been out of his control. The job had come in over the radio and told him to go to the charity shop for a customer pick up. The operator had informed the customer that there would be a delay as it was a busy time of day and asked them if they were prepared to wait and they agreed to wait. When he arrived at the shop Mr Atkinson had been surprised to see that the job was a wheelchair passenger. The charity shop was at the top of

Botchergate around the corner from the Crescent in a dangerous area and was only 40 yards from the taxi rank which had a designated disabled pick up point. The passengers knew Mr Atkinson was going to be late and had the option of using the rank and the safer pick up point.

Mr Atkinson stated that he went ahead with the pick up as he knew the passenger and knew he liked to chat. He pulled in to the near side of the road and the first problem he encountered was his ramp was a trip hazard. He pushed the wheelchair in to the bulk head and put both breaks on; he stated that he would not put only one break on. He put the wheelchair in the taxi as it should be. He highlighted the handbook for the vehicle which had a diagram showing how to secure the passenger and it had been omitted from the report. The wheelchair had to be secured to the hooks on the anchor point for the back axle and then the strap placed across the wheelchair. To do this the driver had to go to the off side of the vehicle which in this case faced oncoming traffic. He would also have had to go down onto his hands and knees which he couldn't do in Botchergate. The Support Worker would also have had to enter the vehicle from the off side and this would have put her in danger.

Mr Atkinson placed the wheelchair in sideways up to the bulkhead with the breaks on. He added that he had a duty of care and did not want to put himself or the support worker in danger on the road. He then set off on the journey making the assumption that the arrangements were ok as the Support Worker, who he felt also had a duty of care, did not comment on the arrangements. If she had any concerns regarding the arrangements she should have asked Mr Atkinson to stop somewhere safer and so the job correctly as she should have been aware that the chair should have been better restrained. Mr Atkinson felt that his remarks had not been offensive. The journey went without incident and he had been shocked by the complaint. He acknowledged that the chair had not been restrained as per the handbook.

In response to Members questions and comments Mr Atkinson stated:

- The incident that took place on 4 March 2009 had been discussed with Licensing Officers at the time and had been untrue. The lady had not fallen from the crate and Mr Atkinson supported the lady the whole time. The crate had slipped and she went to one side but Mr Atkinson had her arm which bruised but she did not fall.
- He had no contracts with Cumbria County Council but was subcontracted when required by Beeline Taxis.
- The pick up in question was at 3.00pm which was the busiest time of the day for wheelchair accessible vehicles and that was why the passenger had been informed of the wait.
- He had collected the passenger on several occasions over a number of years
- When he took the job he had not expected a wheelchair passenger, he thought it would be a customer who had bought a large item
- He had never picked up a customer from Cerebral Palsy charity shop before
- He had not refused to take the passenger despite the dangerous pick up point because he thought they would be upset at waiting for 20 minutes and then being refused to be taken to their destination.

- He had not asked the passenger to move to a safer location for pick up as all of Botchergate was dangerous
- Taxi driving was his only source of income and he had two young dependants
- He had not attended any training as a driver as training was only offered to new drivers
- There were some differences in the two statements provided but he had not said 'Has he fell on his head or something?'

A Member commented that when a customer called for a taxi that they should be collected regardless of their location and proximity to a taxi rank.

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 complaint, the Panel agreed to suspend Mr Atkinson's Hackney carriage Driver's Licence for a period of one month.

2) In addition the Panel requires Mr Atkinson to undertake and pass the Driving Standards Agency Private Hire Hackney Saloon Test and the Driving Standards Agency Wheelchair Assessment Test within 13 weeks of this meeting; failure to pass the tests would result in revocation of his Hackney Carriage Driver's Licence as the Panel would consider him not to be a fit and proper person to hold the licence.

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

(The meeting ended at 3.02pm)