

**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]