

Minutes of the meeting of the Licensing and Appeals Hearings Panel held at 10.30 am on Thursday, 30th March, 2023 at Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU

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Present

Councillor R Kirk (in the Chair)

Councillor M A Barningham

Councillor J Noone

**LAHP.10 Exclusion of the Public and Press**

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the item of business at minute no LAHP.10 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act as the Panel was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**LAHP.11 Conduct of Hackney Carriage and Private Hire Driver**

All Wards

**The subject of the decision:**

The Director of Law and Governance (Monitoring Officer) asked the Panel to consider whether the licence holder (“D”) was a fit and proper person to continue to hold a hackney carriage driver licence.

**Alternative options considered:**

The Panel considered the options in paragraph 6.1 of the officer’s report but, having concluded that D was not a fit and proper person to hold a hackney carriage driver licence, the only suitable option was to revoke D’s licence.

The Panel was not satisfied that any of the alternative options, including issuing a warning or a suspension, would adequately serve the interests of the public and address the concerns raised.

**The reason for the decision:**

The Panel considered the Director’s report, the oral and written representations of D, the witness statements from two complainants, the Council’s Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

D informed the Panel that he picked up a passenger ("P") from Amadeus nightclub in Northallerton in the early hours of the morning on Sunday 26<sup>th</sup> February and, on the way to Brompton, the passenger asked D to pick up her friend ("F") who was walking home.

D informed the Panel that he recognised F from previous journeys. D indicated that he had stopped picking F up because she rarely had money to pay the fare. D informed the Panel that many taxi drivers in the area take the same approach with F. When asked why he hadn't refused to take F on this occasion, D informed the Panel that the Council expects all passengers to be taken under any circumstances. The Panel noted that all drivers can refuse to carry passengers if they have a reasonable excuse and it was satisfied on the basis of D's own account that he, along with many other drivers, had frequently exercised this discretion on apparently reasonable grounds prior to the date in question.

D informed the Panel that when he asked his passengers how the fare would be paid, P and F had given him the impression that they were not willing to pay. The Panel noted that this was in keeping with P's statement, which indicated that she told the driver they are "not paying for this taxi now". However, P alleges that this statement was in response to D's demands for a sexual act from F in lieu of payment. The same allegation was also made directly by F.

The Panel considered the allegations made by P and F in relation to their claims that D had made sexually suggestive remarks. D denied making any remarks of a sexual nature and insisted that he would never use language of this kind. D informed the Panel that, at the start of the journey, he had no reason to doubt that P was willing to pay the fare. The Panel noted that no alternative account was provided to explain the reason for P's apparent change of heart in this regard. The Panel acknowledged that P and F did not attend the hearing and therefore further questions could not be asked to establish further details. The Panel concluded that there was insufficient evidence to find on the balance of probability that D had made sexually suggestive remarks to F.

D informed the Panel that the passengers refused to get out of the vehicle when asked to do so by D upon hearing that they were not willing to pay the fare. D stated that he proceeded to return the passengers to Northallerton, at which point, F opened the passenger door mid-journey. D informed the Panel that he stopped the vehicle and asked the passengers to get out.

D was asked about his experience as a taxi driver and the Panel recognised that he would have faced the prospect of passengers failing to pay the fare on numerous occasions. The Panel noted that this is a criminal offence and a matter for the police to enforce. D informed the Panel that he did not contact the police because they are very stretched and would be unlikely to respond in a timely manner. The Panel was extremely concerned that D had unilaterally made the decision to drive away with the passengers in the opposite direction from their intended destination. The Panel was satisfied that such conduct would be likely to exacerbate any ill-feeling and could put both the driver and passengers in danger. The Panel noted that no collision or injury arose from the

passenger door being opened mid-journey but it was concerned by D's judgement in this instance.

The Panel heard that, on stopping the vehicle, D asked the passengers to get out. P and F both alleged that D had pushed F as she attempted to leave. D insisted that he did not touch F at this point. Again, the Panel acknowledged that P and F were not in attendance at the hearing and therefore there was insufficient evidence to make a finding of fact on the balance of probability in this regard.

D informed the Panel that F had left the car door open when she exited the vehicle and he walked around the front of the car to close the door. According to D, at this point, F approached him and held onto his clothing. D informed the Panel that he pushed her away in anticipation of being struck as F raised one of her hands. The Panel noted that D, P and F all indicated that F fell to the ground as a result of this push. D informed the Panel that he did not know if F had anything in her hand. D insisted that he would only ever use reasonable force in these instances and only if he felt under threat.

The Panel was concerned about D's handling of this situation. The Panel concluded that D would be likely to aggravate the passengers by walking around the car with the passengers still in close proximity to the vehicle. The Panel noted that D had acknowledged the passengers were walking away at this time and the Panel was satisfied that D could have prevented a physical altercation by waiting for the passengers to move further away.

The Panel was concerned that this was not the first time that D had been the subject of a complaint of physical assault. The Panel noted that a complaint was made in 2013 alleging that D had struck another taxi driver. On this occasion, D informed a licensing officer that he knocked the other driver's hand away as she tried to strike him. At this time, D indicated that he is allowed to defend himself and the Panel noted that D was given a written warning about his future conduct in this regard.

The Panel acknowledged that D would be entitled to defend himself if necessary but it was concerned that he had felt the need to do so on two separate occasions with two different females both allegedly attempting to strike him.

The Panel noted that three further complaints had been made against D – one in 2018 and two more in 2021. The Panel noted that all three of the complainants in these instances had made allegations of verbal abuse. The Panel noted that D had been given verbal advice and a further written warning in relation to these matters. The Panel did not explore these matters further but it was satisfied that, irrespective of the outcome in each instance, D's conduct has been the subject of some persistent concern.

The Panel acknowledged that the assessment as to whether or not the driver is fit and proper requires prospective consideration of the driver's character beyond the mere consideration of any alleged misconduct during the latest incident.

The Panel concluded that D had not conducted himself appropriately on 26<sup>th</sup> February 2023. The Panel was satisfied that any failure to pay a taxi fare should be reported to the police and D put himself and his passengers in danger by attempting to resolve the matter on his own. The Panel was satisfied on the balance of probability that the physical altercation on 26<sup>th</sup> February 2023 could have been prevented if D had taken reasonable precautions to manage the situation as an experienced driver should. The Panel was also satisfied that D had been the subject of several prior complaints and that much of this latest allegation was consistent with previous allegations.

The Panel concluded that D's conduct and character falls below the standards expected of licensed drivers. Having regard to the impact of D's conduct on passengers and other members of the public, the Panel concluded that D was not a fit and proper person to hold a hackney carriage driver licence.

**The decision:**

Taking account of the above and having given appropriate weight to the evidence, the Panel was satisfied that D is not a fit and proper person to hold a hackney carriage driver licence.

The Panel therefore resolved to revoke D's licence in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting closed at 11.55 am

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Chairman of the Panel