

Interview – 23 October 2017 – Philip Johnston – Driver Number LD 0107**Present:****Philip Johnston (Licensed Driver) - PJ****Gary O’Shea (Principal Licensing Officer – Torbay Council) – GO****Craig Noble (Licensing Enforcement Officer – Torbay Council) - CN**

GO advised PJ that the purpose of the meeting was to discuss a number of complaints that had been received over a period of time although in particular three complaints that have been received this year. The complaints listed dated back to January 2016, however, these were considered to have been dealt with at the time and were being referred to now only to illustrate what appears to be a pattern of complaints against PJ.

Given the number and nature of the complaints, it was important that PJ was made aware of them and given opportunity to confirm or deny them and were applicable and appropriate to give explanation as to the content and circumstances of each complaint.

On face value the number of complaints would appear to warrant an appearance at committee. Indeed 2 or 3 of them potentially on an individual basis leads GO to hold a view that committee may be the most appropriate course of action. However GO advised PJ that it is accepted that there are two sides to everything and that the purpose of the meeting is to hear any explanation and/or mitigation from PJ. On this basis GO stressed that no decisions have yet been made and only after the meeting would the matter be discussed/investigated further (as appropriate) and a decision made as to how the matters should be dealt with.

GO explained that the Licensing Authority has a duty to safeguard the travelling public as whilst we are always mindful of the rights of drivers and their need to work, we have to consider the safety of the public as our overriding objective and in matters such as these consider the ‘fit and proper’ status of drivers should there be substance in the complaints.

The purpose of this meeting was therefore to obtain any relevant account from PJ with a view to considering whether or not the matter should proceed to a Licensing Sub-Committee, or if not what if any other action should be taken.

The detail of the complaints was put to PJ as follows. The explanations given by PJ are printed in ***bold italics***:

Matters highlighted from 2016 but not discussed in order to illustrate the numbers of complaints received since January 2016:

- 1) 5 January 2016 – Complaint re dangerous driving in Union Street and an altercation that followed on the Rank. CCTV footage was unavailable and no evidence. Words of advice given and matter closed.
- 2) 16 February 2016 – Complaint relating to Lewd comments from PJ to a female passenger, complaint denied, no evidence available and no further action taken.
- 3) Three separate complaints in quick succession. Two from 25th April 2016 and one from 28th April 2016. Complaints related to aggressive comments and behaviour. Matter dealt with by CN by way of informal warning letter sent on 11 May 2016.
- 4) November 2016 – Complaint from Council Solicitor relating to abusive comments towards her following an incident over rights of way. Alleged by PJ that the Council Officer was the aggressor. No evidence independent available and no further action taken.

Matters discussed in more detail from this year as part of the determination as to how to proceed following the latest complaints:

- 5) Complaint as to excessive speed in a 30 MPH limit from a customer being conveyed in another licensed vehicle. Alleged that PJ overtook at around 60 MPH in a 30 MPH limit.

In relation to this complaint it is accepted by the licensing authority that whilst the customer may have been able to say that the vehicle overtook at speed, they could not have any way of knowing at what speed. This initially would be a Police matter (if caught) and failing that it is not a matter for the licensing authority to deal with. Complaint not withheld.

- 6) A complaint from a Police officer relating to an incident that occurred in April 2017.

It is alleged that on 1 April 2017, the Police Officer, driving an unmarked vehicle, pulled out of Castle Road into Union Street joining stationary traffic. Due to the traffic the officer stopped in a hatched yellow box in front of PJ's vehicle. The Officer alleges that PJ was not happy at this and drove forward in an aggressive manner stopping only a short distance from the Police vehicle. PJ is said to have gesticulated and pointed in an aggressive manner clearly not realising that the vehicle in front was occupied by a uniformed police officer. PJ's vehicle was then stopped on Union Street and continued in his aggressive manner when asked to produce documentation. Words of advice were offered.

GO asked PJ if he was aware of the incident and if so what he could tell us about it. In response PJ stated:

The Police Officer only complained to the licensing authority once he knew that I had put a complaint in to the Police about him. The police have actually sent me a total of three letters of apology.

The Officer pulled out in front of me onto a yellow hatched box, which is illegal. I pointed down towards the box to illustrate that he was stopped on the hatchings so as to point this out. The Officer then started to move forward and then brake for no apparent reason, stopping and starting as if trying to get me to go into the back of him. He then stopped me in Union Street and asked for my details, he was the one that was rude and taunting towards me. So shaken was I by this from a serving police Officer that I reported it to the Police and attended an interview upon my request to give my side.

I was asked what I wanted the outcome to be and I said that I wanted something done about it due to the intimidation and at least wanted an apology. I asked them if they could view the CCTV footage from Union Street and even obtained the number of the CCTV office myself. I asked them if there was any footage of the incident but they told me there wasn't as the cameras had been pointing towards Factory Row.

One of the letters of apology that I received even included a victim support leaflet, why would they have sent me that if they did not believe that I had been wronged. A WPC even told me that the Officer concerned had gone into the Police Station and told the desk Sergeant that he would likely be receiving a complaint about him.

All three letters that I received stated that they apologise for any inconvenience caused.

The first or second time that I phoned the Police I spoke with PC 6461 Stewart, he may be able to give some more indication as to what was done about my complaint.

GO asked PJ if the other officer in the police vehicle had been spoken to.

PJ replied that he had no idea whether he had been spoken to or not, however, PC Stewart might be able to give more information.

GO asked PJ if he could elaborate on the 'gesticulation' referred to in the Police officers' statement.

PJ advised that this must have been when he had been pointing at the yellow hatch box that the officer had stopped in. The Gesticulation was merely pointing at the box to illustrate the point.

CN asked PJ if he would be able to show us the letters of apology that he received from the Police.

PJ advised that unfortunately he had thrown them out when he moved home.

GO asked if the reason the Police car had been stop starting was because there was a queue of traffic in front.

PJ advised that the queue had dispersed by now and that the road in front of the police car was clear. There was therefore, no reason to keep stopping and starting.

GO advised that he would try to obtain copies of the letters from the Police and to see if there was any further information that they could provide concerning the incident and the outcome of the complaint.

- 7) This matter was not discussed as whilst it was printed off as a record from PJ's driver history, it is not a complaint. This relates to a notification to the licensing authority by PJ himself relating to an altercation with a van driver. PJ believed that the van driver may complain about him and wanted us aware given the history of complaints that had been made about him to date. No complaint was actually received and therefore no investigation was made and the matter was closed.
- 8) Complaint received in July 2017 from a member of the public which related to alleged dangerous and discourteous driving by PJ. An email was sent to PJ at the time by CN which informally warned of future conduct on the basis that it was one person's word against another. This was explored further as part of this interview given that there have been other complaints both before and since. In response PJ stated:

This occurred when I pulled up at the traffic lights by the Grand Hotel. I was stationary in the right hand lane as I intended to go straight on. The inside lane tends to be used mainly by vehicles intending to turn left. There was a car stopped next to me which, when the lights changed did turn left, as it did a second car drew level with me on the inside lane.

As we crossed the lights with me remaining in the left, we approached a row of parked vehicles, one of which was a camper van that due to its size was jutting out further than normal into the road. I was in the right lane and clearly had right of way as my lane was clear.

At this point the car to left began to beep his horn, I wasn't really sure why but it now seems obvious that he expected me to give way, when I was a fraction in front and in the correct lane, whilst he was undertaking. As we approached the camper van, the car to my left pulled around it behind my vehicle, however, as soon as we were passed it, he again pulled back into the left lane and drew level with me.

As he pulled level, even though the way in front was clear he decided to match speed for speed and started glaring across at me and gesticulating. I gave no reaction, but as I wanted to take the left turn at the next lights into Belgrave road I indicated left and slowed down so that he would go passed me to enable me to pull across to the left in readiness to turn. However, at this point the complainant also slowed further so as to continue matching my speed. I slowed even more and so did he. Eventually we came to the point where both vehicles were going extremely slowly, I would guess about 15 MPH and a long queue was now starting to form behind us. Despite my continuing to indicate left, the other driver would not give way.

Eventually I felt I had no choice with the next set of lights approaching and the queue forming behind but to speed up again and pull in front of the vehicle that was obstructing me. This I did, by which time the two lanes had become three so I moved into the far left lane having ensured that I was clear of the other vehicle and turned left into Belgrave road.

- 9) Details of a complaint received from a member of the public in September 2017, where the complainant alleged that PJ drove deliberately towards a group of School children and their teacher whilst they were crossing the road.

The complainant stated “He (PJ) made no attempt to stop, stating that we need to get out of his way as he has right of way! The teacher had to physically push pupils to safety. Had I not moved out of the way, he would have continued driving into me! He then persisted to hurl abuse at the teacher in question and the students. He dropped his fare off and then came back up the street and hurled more abusive and threatening behaviour. He also contacted the School and was rude to the reception staff. He told our receptionist that he had done this before at another School! (Quite concerning)”.

PJ stated:

I have a couple of issues with this. If I made no attempt to stop, how could I have stated anything? This is absolute fabrication. How would the complainant have possibly known that I would have carried on into them?

I had 2 passengers in the car one of whom was running late so I was dropping that passenger off first and then going back with the other. When driving along Hingston Road you can't drive fast because of all the pot holes. I was doing about 15 to 20 MPH when I saw a woman standing in the road facing my direction, with a group of School children who were crossing the road. As the last few children crossed she put her arm behind the last one as if to usher across. I by this time had slowed right down. However, she stayed in the road and so I stopped.

Another group of School children were approaching but were not crossing and not ready to cross at that moment in time. The woman, however, remained in the road. I then said to the woman, "You are not supposed to block the Queens Highway, can you please move"? At this point she begrudgingly moved aside and I moved forward but exaggeratedly steered the car around her so as to give plenty of room.

I dropped off my first passenger (the one who was running late) and went back the way I'd come. The teacher was still there and began pointing saying that she was going to report me. I said "what for"? To which she replied "for not letting the kids cross the road".

I explained that I did not have to stop and wait for children if they were not already crossing. The teacher would not accept this point and as I knew I was in the right (as I had checked the facts with another School in the past, where I thought a teacher was hazardous in the way that they 'guarded' their pupils as they crossed) I said I would phone the School in order to check on their procedures and to ensure that teachers were fully advised and conversant with those procedures.

I phoned the School later that day and asked to speak with somebody who would know about the procedures for children crossing the road. She replied "I don't think you'll find that any of our teachers are at fault". I asked nevertheless if I could speak with someone and she advised that they were all at lunch. I said "don't bother" and put the phone down.

10) The final matter put to PJ related to another complaint from a member of the public (a cyclist) which was received on 12 October 2017. The cyclist alleges that the vehicle driven by PJ was “driven at me with the drivers hand on the horn. I instantly stopped and turned round to see what was wrong. The car had stopped dangerously close to me”. Further details of the complaint are held and were put to PJ, who responded:

I was stopped at the crossroads coming up Tor Hill Road by the Casino. I was stationary and not over the line. The cycle lane extends beyond the stop line for cars. I was indicating left. A bike came up beside me and he must have seen my indicators. When the lights changed, the cyclist looked behind him to see presumably what I was doing. He started moving off but was very hesitant and slow probably moving at 1 MPH or thereabouts. I couldn't turn because he was in my way and I had absolutely no idea which way he was going.

At this point the lights went red again. The traffic going the other way started to move and the man behind me beeped his horn. Both my vehicle and the cyclist at this point were across the line and effectively in 'no man's land' so I beeped my horn and said to the cyclist “what are you doing? Are you going”? He didn't move so I pulled wide around him and turned left. As I went round him I heard a loud thump. I knew I was well clear and had not made contact so I pulled over and stopped.

It was evident that the cyclist had thumped my car as I move round him. I said “what are you doing you just thumped my car”? The cyclist replied that I had hit his elbow. I told him that I had not and that I had it all on camera which will show him thumping my car. I told him that he was lucky there was no damage and to grow up. Horns were blaring by now, I told him that he should not be thumping people's cars but because of the build-up of traffic and not wanting to cause unnecessary congestion I moved on.

As for alleging that I 'squared up' I simply got out of my car to see if there was any damage. It was the cyclist that came over to me to ask what I was doing. If anything he is the one who 'squared up' to me.

PJ was thanked for his accounts as given in response to the complaints received.

CN stated that we are concerned by the numbers of complaints that we have received particularly over the last year. Whilst PJ has viable explanations for all of the matters put to him, everything seems almost too coincidental. CN went on to say that out of nearly 550 licensed drivers it always appears to be PJ who is named in the complaint. CN asked if PJ had any explanation as to why this might be. This was a question that CN felt prudent to ask given the number of complaints, it in no way means that the account given by PJ is disbelieved rather than highlighting a point in order to understand the reasons for any complaints made.

PJ stated:

It is probably because I speak out if I believe that I'm in the right. I will stand up for myself and voice opinion if I think someone else is in the wrong. Other drivers may have similar circumstances occur to them but if they do not speak out then maybe they don't get complained about. People are quick to complain if they don't like something and when I do speak out I am an easy target because my vehicle is easily identifiable, my number plate is easy to remember and I have a licence number displayed on it too.

PJ accepted that by speaking out this in itself could lead to unnecessary confrontation. He advised that following the meeting he would make a concerted effort to take a few steps back and try not to become involved when situations arise.

GO once again thanked PJ and asked if there was anything else he wanted to add. PJ replied that there was not. GO therefore closed the meeting by advising that the notes would be written up and sent to PJ in the first instance for approval. Once they have been agreed as a true account (albeit not verbatim) by PJ then a decision would be made as to what if any action should be taken.

PJ had given an account of everything which requires possible further investigation and/or consideration but we would try to ensure in fairness to PJ that we arrive at a decision as quickly as possible and that this is advised to him at the earliest opportunity.