

Thorpe v Transport for London

Case No. 2050111757

PCN Number: GT11813653

Being in a Bus Lane During the Hours of Enforcement

This is an application for review by the Appellant. The basis of the application is that the Adjudicator erred in law in refusing the appeal and accordingly the interests of justice require a review.

The vehicle is licensed as a hackney carriage by the Thanet District Council. The Adjudicator, however, decided that the vehicle could not be driven in bus lanes in London because, being licensed in Thanet, it could not ply for hire in London; and therefore the vehicle was not a "taxi" as defined by regulation 4 of the Traffic Signs Regulations and Directions 2002.

With respect to the Adjudicator, that reasoning is incorrect. Regulation 4 of the TSRGD requires only that the vehicle is licensed under section 37 of the Town Police Clauses Act 1847, section 6 of the Metropolitan Public Carriage Act 1869 or under any similar enactment. This vehicle is so licensed and is therefore a "taxi" as so defined. The fact that it cannot ply for hire in London is irrelevant; it does not cease to be a licensed hackney carriage when it is outside the area in which it can ply for hire. It is, of course, common for a hackney carriage to pick up a passenger within the area that they can ply for hire and take them to a destination outside that area.

I might add that the Appellant has produced a letter dated 8 June 2005 from Transport for London relating to another similar appeal from which it seems they accept the vehicle is a "taxi".

I accordingly set aside the original decision in this case and this appeal.

**Martin Wood
Adjudicator
12 August 2005**

Original Decision Subsequently Reviewed Under Regulation 11 of The Road Traffic (Parking Adjudicators) (London) Regulations 1993

Decision Date	17 May 2005
Previous Decision	Refused
Adjudicator	Henry Michael Greenslade
Direction	None

Mr Thorpe does not dispute that it was his vehicle shown in the closed circuit television video evidence produced by Transport for London and that it was, at the material time, in the bus lane in Loampit Hill. There is also no dispute that it was during the hours of operation of the bus lane.

The bus lane is created by the *A20 GLA Road (London Borough of Islington) (Bus Priority) Traffic Order 2000*. Under Article 3, no person shall cause a vehicle to be in a bus lane in a specified length of road unless, amongst other things not in dispute, it is of a type specified in the schedule. Paragraph 1 of Schedule 1 of the Order provides that class of vehicle permitted to travel in this particular bus lane includes 'taxi'.

Article 2(e) of the Order provides that 'taxi' has the meaning given in the *Traffic Signs Regulations and General Directions 1994*. Regulation 4 of which provides that 'taxi' means in England and Wales, a vehicle licensed under Section 37 of the *Town Police Clauses Act 1847* or Section 6 of the *Metropolitan Public Carriage Act 1869* or under any similar enactment which would include section 48 of the *Local Government (Miscellaneous Provisions) Act 1976*.

Mr Thorpe's case is very simple. He says that he is a taxi driver and his vehicle is a Hackney carriage, licensed outside the Greater London Area. Mr Thorpe says that his vehicle is therefore a 'taxi' and entitled to use this bus lane.

Since the Hackney carriage licence is presumably issued within the meaning of Regulation 4 of the *Traffic Signs Regulations and General Directions 1994*, I must therefore determine whether the vehicle is a Hackney carriage in London.

The principle purpose of the *Metropolitan Public Carriage Act 1869* relates to the licensing of 'stage carriages' and 'Hackney carriages' in London. Of sole relevance here are Hackney carriages. These are defined by the Act as 'any carriage for the conveyance of passengers which plies for hire in any public street, road or place . . .'.

It is not disputed that the *London Hackney Carriage Act 1843* and subsequent legislation effectively mean that only a Hackney carriage licensed by the Public Carriage Office (a 'black cab') can ply for hire within the Greater London Area.

The position therefore is that the vehicle Mr Thorpe was driving was not licensed or permitted to ply for hire within the Greater London Area.

Considering all the evidence before me carefully I find as a fact that the vehicle is not a 'taxi' within the meaning of the Traffic Management Order and, there being no dispute that vehicle was travelling in a bus lane during the hours of operation, I must find that the contravention did occur.

Accordingly, this appeal must be refused.