

## Transport for London v Mr S Faw

**Case Reference : 203013556A      PCN: GL02642383**

### **DECISION**

Mr Faw does not dispute that it was his vehicle shown in the photographs/digital images produced by Transport for London and that it was, at the material time, in the bus lane in City Road as alleged. There is also no dispute that it was during the hours of operation of the bus lane.

The bus lane is created by the *A501 GLA Road (Islington) (Bus Priority) Traffic Order 2001*. 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 6 of Schedule 1 of the Order, as amended by the *A501 GLA Road (Islington) (Bus Priority) Traffic Order 2001 Variation (No.2) Order 2001*, 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.

Mr Faw case is very simple. He says that he is a licensed private hire driver. Mr Faw has produced a 'London Private Hire Temporary Permit' issued by the Public Carriage Office on behalf of Transport for London, the Licensing Authority. Mr Faw's case is that his vehicle is therefore a 'taxi' and entitled to use this bus lane.

The Temporary Permit which Mr Faw produces is issued as a transitional measure to what are deemed 'existing drivers' pending the issue of a permanent licence. For the purpose of this present case I find that there would be no difference between a temporary permit and permanent licence. Both are issued under the *Private Hire Vehicles (London) Act 1998*.

Since the permit is clearly not issued under either of the Acts mentioned in the *Traffic Signs Regulations and General Directions 1994*, I must therefore determine whether the Act of 1998 comes within the meaning of 'any similar enactment' in Regulation 4 thereof.

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 . . .'

Under Section 1(1)(a) of the *Private Hire Vehicles (London) Act 1998* 'private hire vehicle' means a vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver to the public for hire for the purpose of carrying passengers, other than a licensed taxi or a public service vehicle. However, Section 4(1) provides that the holder of a London private hire vehicle operator's licence shall not in London accept a private hire booking other than at an operating centre specified in his licence. This clearly means that the holder of such a licence may not ply for hire in the street. Mr Faw accepts this.

For the sake of completeness it can be added that Schedule 21 of *Greater London Authority*

*Act 1999* effectively transferred the licensing powers of the Secretary of State under the Act of 1998 to Transport for London but this does not affect any live issue in this case.

The position therefore is that the vehicle Mr Faw is driving is not licensed or permitted to ply for hire.

Considering all the evidence before me carefully I find as a fact that the vehicle is not a taxi 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.

**Adjudicator**

Mr Henry Michael Greenslade

**Decision**

Refused