

**BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK**

**LICENSING AND APPEALS BOARD – PANEL HEARING**

**Minutes of a Meeting of a Panel on  
Tuesday 17<sup>th</sup> October 2012 at 10am  
in the Committee Suite, King's Court, Chapel Street, King's Lynn**

**PRESENT:**

Councillor Roy Groom (Chairman), Councillor John Loveless  
and Councillor Tony Lovett.

**OFFICERS PRESENT:**

Rachael Edwards - Senior Democratic Services Officer  
John Gilbraith - Licensing Manager

**LEGAL ADVISOR:** - Emma Duncan

**CASE NUMBER – LAB005/12**

**1. Exclusion of Press and Public**

**RESOLVED** "That under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A to the Act."

**2. Renewal of Combined Drivers Licence & Hackney Carriage Proprietor's Vehicle Licence**

The Chairman welcomed everyone to the meeting and introduced the Panel, Officers and the Legal Advisor. The licensed driver was present at the hearing and was represented by a fellow taxi driver.

The Legal Advisor outlined the procedure that would be followed at the hearing. There were no questions in relation to the procedure.

At the invitation of the Chairman, the Licensing Manager presented his report and explained that the driver had held a Borough Council of King's Lynn & West Norfolk Drivers Licence for a number of years. His previous Combined Driver's Licence expired on the 12<sup>th</sup> October 2012 and he has held a DVLA licence since 1990. He also holds a Hackney Carriage Licence which expires on the 19<sup>th</sup> January 2013.

The report was for Members to consider the driver's renewal as a result of him accruing a number of penalty points on his DVLA driving licence.

Condition 7.7 of the Borough Council's Hackney Carriage & Private Hire Licensing Procedures and Conditions stated:

*"If a Driver accrues 9 or more points in a 3 year period on his/her DVLA driving licence, they will be required to appear before a Panel of the Licensing & Appeals Board in order for their continued suitability to hold a driver's licence to be assessed"*.

The Panel may also consider it appropriate to review the driver's continued suitability to hold a Hackney Carriage Proprietor's Licence.

The Licensing Manager explained that the driver had verbally advised the Licensing Team on the 18<sup>th</sup> April 2012 that he had been caught speeding on the 10<sup>th</sup> April 2012. He had subsequently appeared in Spalding Magistrates' Court. The Licensing Manager outlined details on the driver's DVLA driving licence and the outcome of the Magistrates' decision.

The Licensing Manager advised that Panel Members would wish to be aware that the driver had been referred to a Panel of the Licensing & Appeals Board on two previous occasions. The details and subsequent decisions were outlined to the Panel.

Under section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Borough Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds:

- (a) That he has since the grant of the licence
  - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
  - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of the Act of 1976; or
- (b) Any reasonable cause.

Under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976, the Borough Council has the authority to suspend, revoke or refuse to renew a vehicle licence on any of the following grounds:

- (a) that the hackney carriage or private hire vehicle was unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- (c) any reasonable cause

The Council had previously adopted guidelines relating to the relevance of convictions (attached at Appendix 1). The convictions could, individually be

considered as 'minor' but the Panel may wish to evaluate the cumulative nature of these convictions.

The reason for the licensing of drivers was that the driver was in a position of trust and responsibility for his passengers. Consequently, it was generally accepted that such professional drivers should have a standard of care and driving that exceeded that of a private motorist.

The Borough Council should only authorise hackney and private hire licences when they were satisfied that the applicant was "fit and proper" to hold such a licence. The Panel should be aware that any matter could be taken into consideration when determining 'fit and proper'. Whilst there was no judicially approved test for fitness and propriety, the Panel might find the following test useful:

*'Would you (as a member of the Licensing & Appeals Board charged with the ability to authorise a combined driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or grand-daughter or any other person for whom you care, to get into a vehicle with this person alone?'*

If the answer to this question was an unqualified 'yes', then the test was probably satisfied. If there were any doubts, then further consideration should be given as to whether the person was a fit and proper person to hold a Combined Driver's Licence.

The Panel were requested to consider the renewal application and review of vehicle licence, including any submissions put forward by the driver and/or his representative and dispose of the matters using the options below:

Renewal Application (CDL):

- a) Grant the renewal application;
- b) Refuse the renewal application;
- c) Grant the application with a warning;
- d) Grant the application with a requirement to complete and pass the Driver Standards Agency (DSA) test and/or knowledge test;

Vehicle Licence (Hackney Carriage)

- e) Take no action;
- f) Issue a warning;
- g) Suspension;
- h) Revocation.

The Panel were reminded that grounds for their decisions must be given as there was provision for appeal to the Magistrates' Court against that decision.

The licensed driver's representative presented their case and circulated a number of references to Members of the Panel to review.

The licensed driver's representative responded to a number of questions from the Licensing Manager and Members of the Panel.

The Licensing Manager summed up his case and reiterated that the hearing was to determine the suitability of the licensed driver to renew his Combined Driver's Licence and to continue to hold a Hackney Carriage Proprietor's Vehicle Licence.

The licensed driver's representative summed up their case.

The Legal Advisor addressed the Panel and advised the Panel on the law, its practices and procedures.

The Chairman advised that the Panel would retire to consider their decision, with the Legal Advisor and Senior Democratic Services Officer (for administrative purposes) only. On returning to the room, the Legal Advisor would announce any advice she had given in closed session.

The Panel retired and considered its decision in private. On returning, the Legal Advisor confirmed that she had assisted with the formulation of the wording for the Panel's reasons.

## **DECISION**

The decision of the Panel was read out.

## **REASONS FOR DECISION**

The reasons for the decision of the Panel were read out.

**The meeting closed at 11.05am**